

DOCUMENT RESUME

ED 346 249

CE 061 233

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TITLE MONTGUIDE. Montana Cooperative Extension Service
Consumer Education Guides.
INSTITUTION Montana State Univ., Bozeman. Cooperative Extension
Service.
PUB DATE 91
NOTE 68p.
PUB TYPE Guides - Classroom Use - Instructional Materials (For
Learner) (051)

EDRS PRICE MF01/PC03 Plus Postage.
DESCRIPTORS Adult Education; *Consumer Economics; *Consumer
Education; *Family Income; Higher Education;
Marriage; *Money Management; Paying for College;
Retirement; *State Legislation
IDENTIFIERS *Montana

ABSTRACT

This packet contains 14 consumer education guides concerning financial and legal issues for families at various life stages. The guides are especially aimed at persons living in Montana. The guides cover the following topics: (1) helping people to cope with financial crisis; (2) using a check register to track expenses; (3) individual retirement accounts; (4) estimating the amount to save for retirement; (5) schedule of nonmonthly family living expenses; (6) power of attorney; (7) financing a college education; (8) living trusts; (9) estimating the amount to save for college; (10) legal and financial implications of marriage in Montana; (11) managing a seasonal income for family living expenses; (12) estate planning for families with minor children; (13) remarried families--making financial decisions; and (14) financial aspects of premarital agreements. (KC)

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MONTGUIDE

Montana Extension Service Consumer Education Guides

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HELPING PEOPLE COPE WITH FINANCIAL CRISIS

by

Marsha A. Goetting, Mary Maifeld and Anne R. Wiprud*

Economic calamities have become a reality for numerous Montana families during the past few years. Almost every segment of our economy has been affected: hometown businesses, manufacturing firms, railroad, timber, mining, ranching and farming industries. Behind the statistics of closings, layoffs, bankruptcies and job losses are people—acquaintances, friends and relatives—who may need a listener to help them cope with financial crisis.

This guide was developed by Extension staff out of concern for financially distressed families in Montana. It is for those who want to help acquaintances, friends or relatives facing financial crisis. The guide provides information on listening, depression, suicide and how to encourage a friend to seek professional help.

If you'd like to develop a better understanding of what your friends or relatives are going through, you are encouraged to read *Montana Families: Taking Control During a Financial Crisis*. The first section, "Take Control of Your Emotions," describes the characteristics of the phases of grief to help you assess the emotions your friends and relatives are experiencing. Montana families who have encountered financial crisis revealed they experienced phases similar to those grieving over the death of a loved one.

The second part, "Take Control of Family Resources," provides ideas on financial control.

The third section explores alternatives of selling assets, prorating credit payments, debt consolidation, voluntary repossession and bankruptcy.

The fourth section, "Believe in a Future," encourages people to change the attitude they use to look at problems and take a positive attitude toward the future.

Listening

During a financial crisis, the best strategy a concerned friend or relative can use is physical presence, acceptance and listening. Repeating words of assurance is important.

In one study of families who had left farming in Missouri, two-thirds indicated they had tried to discuss their situation with friends "who did not understand or were not concerned." One Montana farmer tried to share with his neighbor. His friend seemed more concerned about the sale price of land. Perhaps the friends didn't know how to respond. Ideas are presented throughout this guide to help the talker and listener communicate better.

A person under financial stress should be allowed to express his or her feelings. If you are the listener, this means you should allow the person to talk, yell or cry. How you respond to someone who is feeling stressed is important. Don't say, "I know exactly how you feel." You probably don't. Unless you've lost a job, farm or ranch or closed an unsuccessful business, you don't know how the person feels. Even then, "You don't because what I felt about my farm wasn't exactly what you felt about yours," emphasized one Montanan. However, if you've had similar experiences, sharing those may help. Say things like, "This is what helped me. It might help you." Or "I know some of what you must be feeling."

Analyzing, advising or judging that person by such comments as, "Don't get so emotional," "Try a budget" or "It's silly to worry about it," are not very helpful responses. One reviewer shared, "A good listener never

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gives advice unless asked for. Often, listeners think that the stressed person wants advice, when what they really want is support."

What financially stressed people need is someone who will listen to them, offer their support and allow their feelings to be expressed. The listener should ask short, neutral questions or express concern and a willingness to listen. Sometimes a nod or "hum" will often let the person know you are listening. Sincere comments, such as "Would you like to talk about it?" "You seem upset" or "I can see how that would bother you," are helpful. While some folks don't like to talk, others have a tendency to talk about everything else under the sun *but* their problem. This rambling may go on for some time before the real problem comes out. Often it is best to let this process happen.

When you seek responses, be sure that your questions don't sound too probing. The person may not be ready to share everything during the first visit. That person needs to know that you can be trusted to keep his or her confidences. You can still listen when there is silence. Perhaps your friend is not quite ready to talk about the situation. You can offer your physical presence as support even when the person is silent. "Don't rush in and try to fill the silence," cautioned one Montana helper.

Do not underestimate the value of "just listening." Listening is, perhaps, the most important communication skill. Yet, many of us don't listen as well as we might for many reasons—because we are busy; because we allow ourselves to be distracted; because we don't take our children, parents or spouse seriously; because we allow our prejudgements to interfere with our receiving; or because we want to help too much. For additional information on listening, ask for Extension Service MontGuide 8303HRD.

Sometimes a person can find the cause of his or her financial stress and see the likely solutions simply by talking. At other times, a person may need help seeing the sources of the problem or in seeing alternatives for solving it. In those cases, your experiences, wisdom and objectivity may be valuable. Either way, facing up to the problem and getting feelings out in the open are the first steps in managing financial stress.

Depression

You may find that a person in a financial crisis is depressed. Your attempts to help may be met with defensiveness and verbal attacks. Frequently, questioning him or her about the condition may be answered with crying and frustration simply because the person may not be aware of how to cope. This person may also be in the anger and resentment phase. At such times, the sincerity of a friend or relative is questioned when the depressed person doesn't feel worthy of someone's caring.

Withdrawal from others, even when very lonely, can make it nearly impossible to encourage a depressed person to enter into activities that may help pull him or her out of the depression. This problem can be particularly acute when the depressed person doesn't have the money to participate in former group activities, such as going to the movies or taking a weekend trip.

While being supportive and understanding, you must be careful not to do things that fulfill any unreasonable or unrealistic needs on the part of the depressed per-

son. There is a very thin line between being supportive and being overly protective. Too much concern can feed an unrealistic demand for attention. Buying too many things for a family member who just can't seem to get enough money together can bring about great dependency and also guilt over being indebted to someone else.

As a friend or relative, be creative in involving your financially stressed friends in activities that do not involve a cash outlay. "We simply didn't have any money for extras, and here were our friends wanting us to go bowling. I felt worse after their invitation," shared one mother.

"My friends keep inviting me to movies, but I can't go because I haven't any money. How long will this last?" complained an eastern Montana teenager who's part of a farming family.

Invite friends or relatives who are in a financial crisis over for a potluck dinner and a visit. Don't be dismayed if they refuse. Don't feel rebuffed and don't take it personally. They may want to avoid the question that everyone out of habit asks these days: "How are things going?" Continue to be their friends in any way you can. They need you but may not realize it yet.

Suicide

People have killed themselves as a result of severe financial crisis. Listen for suicide threats and watch for questionable behavior. Sometimes people who are thinking about killing themselves give away cherished belongings or say something like, "After I'm gone. . ."; "Are the insurance policies up to date?"; "Would you take care of my pet if. . ." If you think suicide is an immediate possibility, **do not leave your friend or relative alone.**

Finding the right words can be difficult, but the experts say you should focus on feelings and also on consequences. A human development specialist from Iowa says, "Give them a dose of reality." Ask them how suicide would affect their family, their friends, even the whole community for years to come. Emphasize that the farm or business isn't everything; the family is what counts. If they say the family would be better off without them or that family members just don't care, suggest going with them to talk to mom, dad or the kids.

This advice goes against what we've been taught about respecting a person's privacy. However, it is better to be wrong and end up making a person angry than to do too little and end up with a dead friend or relative.

A caring novice can be far more helpful than an unempathetic professional in counseling a person who shows signs of contemplating suicide. What that potential suicide victim needs is someone to trust. Stay until you are sure the immediate crisis has passed. During the following days and weeks, continue to give the person much attention. Show your support by making frequent phone calls and drop by regularly.

Even if talk is vague and there's no concrete evidence of a plan for suicide, if you think it's a strong possibility, tell the family you are concerned about the potential suicide. Encourage them to talk with the local minister or a mental health professional about the situation.

Encouraging a Friend to Seek Professional Help

Scenario: Ben and Lois have been farming for 15

years. The last few years they have struggled financially. If they don't have a good harvest this year, they could lose the farm.

Neighbors Patty and Mike are concerned for their friends, especially Ben. He used to be responsible, outgoing and energetic. Now, he's forgetting appointments, neglecting his livestock and skipping church. He looks tired and withdrawn.

Patty and Mike want to help but feel Ben needs more than friendly advice. They think Ben needs to talk with a professional counselor to work out his problems. They wonder how to encourage Ben to seek the help he needs.

Do you have a friend or family member who is struggling with a serious personal or family problem? Encouraging your friend to get professional help may not be easy—for you or your friend.

You may feel uncomfortable talking with him or her about a personal problem. Is it really your business? Is the problem really that serious?

Your friend may become defensive when you bring up the problem. He or she may feel that you're intruding—that you're violating personal privacy.

Or your friend may want help but be hesitant to seek professional help. This may be especially true if your friend is self-reliant or has never been to a counselor before. He or she may feel seeking professional help is a sign of weakness, not strength.

Seven tips to Help You Encourage a Friend to Seek Professional Help

Before you decide it's too difficult to get your friend to seek help, remember, your encouragement is important. Without your support, your friend may not seek needed professional advice.

Following are some tips that should help you.

1. *Plan a Caring Confrontation.* If possible, try to talk with your friend when neither of you is rushed or distracted. Use phrases like "I've been worried about..." or "I'm bringing this up because I really care about you..."

2. *Discuss Specific Behaviors.* Prior to the caring confrontation, list the behaviors you've seen your friend exhibit that concern you. Your list might include withdrawal, anger, self-destructive actions, depression, lack of sleep or loss of appetite.

3. *Protect Privacy.* Find private space and make sure there are no interruptions while you are talking. Send the children to play in the next room or unplug the telephone, for example. Sensitivity to your friend's privacy communicates trust, respect and security.

4. *Ask What Your Friend Thinks and Feels.* Being confronted with an emotionally painful problem is stressful. Initially, your friend may feel confused, frightened, embarrassed or defensive. It may be hard for him or her to respond to your concerns.

Ask your friend, "How do you feel about the problem?"

Then, be a good listener. Listen to the words and feelings expressed, and check for understanding. Support any attempts your friend makes to respond to the concerns you've voiced.

5. *Understand Possible Barriers and Offer Alternatives.* Before you approach your friend about the problem, understand what barriers may be keeping him or her from seeking professional help and be able to offer

suggestions to help overcome these barriers.

For example, some people believe that only those who are "mentally ill," "crazy" or "psychotic" seek professional help. Since they don't want their friends, neighbors or family members to label them as such, they won't seek help from a counselor.

They may not realize that counselors also work with individuals struggling with personal problems similar to their own. The counseling setting offers such individuals a trusting, warm and non-judgmental atmosphere in which to work out difficult problems with the help of an expert.

Others feel they can't afford the consultation fees or transportation costs. They lack practical information about cost, sliding fees, use of health insurance and the availability of transportation assistance from friends, churches and other community sources.

Still others have more personal fears. Confronting a problem and accepting counseling to change the problem can create anxiety and increase personal vulnerability. Some people feel accepting help is not a positive, strong response to solving a personal problem.

Being a good listener is especially helpful in identifying and understanding what barriers are keeping your friend from seeking help. Listen to the reasons your friend gives for not seeking help. Then, be able to counter about cost, use of insurance, the benefits of counseling—whatever is appropriate.

When preparing for your caring confrontation, ask yourself the following questions: "What barriers might I set up if I were to need professional counseling?" "What would my personal fears be?" "What information would I find useful?"

6. *Locate Possible Community Resources.* Before talking with your friend, you also need to know what community resources are available. Making the first contact often is the most difficult part of getting help. Offer to call a counselor for your friend or go with him or her to the first appointment. You can also leave the name and number of a good counselor with your friend. Then your friend can call when he or she is ready.

7. *Continue to Be Supportive.* No matter how much you prepare for your first caring confrontation, you still may not be able to convince your friend to seek professional help. Don't be discouraged!

You have taken an important first step in helping your friend. You have confronted him or her about the problem, and you have shown that someone cares. Continue to offer support and encouragement. It may take much time and effort to get your friend to seek help.

Encouraging a friend to seek professional help to work out a serious personal or family problem is not an easy task. But it is a worthwhile one. We all can make it through tough times when we have "a little help from our friends!"

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FILE UNDER: CONSUMER EDUCATION
L-1 (Miscellaneous) MT 8608 HRD
Issued September 1986

Using a Check Register to Track Your Expenses

by

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Discovering where your dollars go is the first step in becoming a more effective financial manager. After you've tracked your expenses for several weeks you may be amazed at the amounts actually spent for basic living expenses such as food, housing, transportation, clothing and medical care. Once you are aware of amounts spent, you can begin to take control of your finances.

This MONTGUIDE describes a management technique that shows exactly how much you have spent or have left to spend for each living expense category. At any point of time during the month you can see whether you can afford further expenditures based upon your spending plan. The system is designed for those who want a simple way to track expenses without having to spend a lot of time doing it. While the illustrations were developed primarily for individuals who have a checking account, the method can be easily adapted for Montanans who use cash and credit cards.

Determining Expense Categories

First, make a list of your family living expense categories. Food, housing, transportation, clothing, personal care, medical and recreation are typical examples. Don't get carried away with listing too many categories, as you're limited by space in the check register. Start with five to seven.

Second, determine how much you anticipate spending monthly for each category. If you don't have any idea, separate last year's checks by your expense categories. Total amounts under each one and divide by 12 to arrive at an average monthly amount spent. The results of this process may be shocking. You may be spending much more for each family living category than you thought. If you typically write checks for more than the amount of purchase, your totals will be unrealistic, but don't let this stop you. If you spent cash for most purchases, total the cash withdrawals from your checking and savings accounts. Don't forget to include cash from the automatic teller machine, if you use one. Divide

your cash withdrawals by 12. This process will give you an idea of average monthly cash expenses, even though a year later you may not be able to recall where all the dollars went.

If you primarily used credit cards for purchases, itemize the monthly bills to learn what the charges actually were for clothing, gasoline, eating out, etc.

If you don't have records for determining amounts to allow for each category, "guess-timate" or use DOLLAR WATCH figures. DOLLAR WATCH, a computerized budget analysis program, is available from the MSU Extension Service. It compares your expenses with the averages of other families of the same size and income level and sends you a report.

After you've used the check register to track expenses for a couple of months, you'll have a more realistic idea of your spending habits.

Check Register

Now you're ready to request a blank check register (if you don't already have one) from your bank, savings and loan association or credit union. If you don't have access to a check register, make one using plain paper. Or you may wish to order check registers developed specifically for this tracking system in which space is provided for seven expense categories, with vertical lines drawn to separate expense categories on each page. The cost is \$1.00 for a supply that will last most people from two to three months, depending upon the number of checks written. To receive a Check Register, contact your Extension agent or send \$1.00 to: Check Register, Extension Publications Office, Montana State University, Bozeman, MT 59717.

If you're using a check register from a financial institution, place adhesive labels across the top of the page. Then list each expense category and amount you plan to spend. Next, draw as many vertical lines on your register as you have expense categories. Don't draw lines in the balance section of your check register or the extreme left column where the check number and date are located. See Example 1.

Example 1—Before applying adhesive labels

RECORD ALL CHARGES OR CREDITS THAT AFFECT YOUR ACCOUNT									
NUMBER	DATE	DESCRIPTION OF TRANSACTION			PAYMENT/DEBIT (-)	✓ T	FEE (IF ANY) (-)	DEPOSIT/CREDIT (+)	BALANCE
					\$		\$	\$	

Example 1—After applying adhesive labels

MAY RECORD ALL CHARGES OR CREDITS THAT AFFECT YOUR ACCOUNT									
NUMBER	DATE	FOOD	HOUSING	TRANS.	CLOTHES	PERS. CARE	MED.	REC.	BALANCE
TOTAL									\$ 300 00
1530		300.00	590.00	360.00	120.00	30.00	50.00	80.00	

Check Writing and Recording of Expenses

When you write a check, record the amount in the balance column. In Example 2, check #511 was written for \$9.06 to a discount store for shampoo, hair rinse and other personal care items. The \$9.06 is also subtracted from the \$30 personal care budget, leaving \$20.94 for the rest of the month.

You make only two entries with each check, one in the appropriate expense category and one in the balance column. The figure in the balance column shows the amount left in your checking account. The figure in the expense column shows the amount you have left to spend in each category.

Record the check number and date in the usual location (far left column). Underneath, record the business for which the check was written. Repeat this procedure each time you write a check. See Example 2.

You may simplify entries in the expense categories by rounding your figures up or down. For example, write \$9.00 instead of \$9.06 in the

personal care expense category. This makes the subtraction process less time consuming. However, you may prefer to record *exact* figures in the balance column. This way you will know the exact balance in your checking account.

Don't forget to record your cash expenses in the appropriate columns as illustrated in Example 3. Cash expenses of \$3.75, \$24.00 and \$15.00 are circled. The amounts are not subtracted from the balance column because the \$50 cash withdrawal had been recorded in a prior month.

On the check register from the MSU Extension Service, each page provides space for writing in the categories. You will not need to apply additional adhesive labels, nor will you need to draw the vertical lines again. If you are using a register from a financial institution you can place adhesive labels across the top of each succeeding page. Another option when it is time to move to a new page is to cut off the top to expose the labeled categories on the first page. Remember to record the amount remaining in each category

Example 2

MAY RECORD ALL CHARGES OR CREDITS THAT AFFECT YOUR ACCOUNT									
NUMBER	DATE	FOOD	HOUSING	TRANS.	CLOTHES	PERS. CARE	MED.	REC.	BALANCE
TOTAL									\$ 300 00
1530		300.00	590.00	360.00	120.00	30.00	50.00	80.00	
511	5/1					-9.06			9.06
K-MART						20.94			290.94
	5/11								1022.98
DEPOSIT									1133.92
CASH	5/15								50.00
WITHDRAWAL									1263.92

from the previous page under appropriate columns. Draw as many vertical lines on your new pages as you did previously.

At the end of the month, review your expenses. You may discover you were right on target with some but off on others. For example, one Montana family had \$34 left in their housing category because it was summer and they did not use much electricity. This family knows that they will need the "leftover" dollars during the winter months. Simply because there are dollars left in the balance column does not mean those are "extra" dollars to be spent now. Those dollars need to be set aside so they will be available to meet your planned budget expenses later on. This family will transfer the balance to an interest-bearing account for use during winter.

Recording Deposits and Withdrawals

Deposits, such as Social Security checks, interest from savings and automatic paychecks can be easily recorded in your check register. Write deposits in the balance column and add to the balance. Record the date in the far left column. Be sure to indicate the transaction was a deposit.

For cash withdrawals, subtract the amount from the balance column. Record the date in the

far left column. See deposit on 5/11 and withdrawal on 5/15 on example 2. Be sure to indicate the transaction was a cash withdrawal or deposit.

Starting a New Month

When beginning a new month, once again relabel the expense categories and, if necessary, draw vertical lines. If you found the categories in the prior month unworkable, change them. For example, one Montanan started with categories for personal care and clothing. After two months she combined them into one.

If you found your planned expenses were unrealistic, change allocated spending amounts.

Questions About the System

What if I write one check for purchases that fall under several categories?

If you purchase items from a discount or grocery store that fall under several categories, ask the sales clerk to subtotal each group for you. If there's not a long line of people waiting, most sales clerks will gladly accommodate you. Record each subtotal in the appropriate category of your check register as the amount appears on the cash register. If you are rushed or people are

Example 3

Circled number denotes cash expense.

MAY									
RECORD ALL CHARGES OR CREDITS THAT AFFECT YOUR ACCOUNT									
NUMBER	DATE	FOOD	HOUSING	TRANS.	CLOTHES PERSONAL CARE	MEDICAL	REC.	CREDIT CARD	BALANCE
									\$ 300.00
		125.00	680.00	150.00	45.00	50.00	50.00	1500.00	
	5/1								1600.00
DEPOSIT									1900.00
501	5/1		-550.00						550.00
HOUSE PAYMENT			130.00						1350.00
502	5/2	-51.00							51.00
GROCERIES		74.00							1299.00
	5/4				-24.00				
PENNEYS					21.00				1299.00
	5/5					-15.00			
CLINIC						35.00			1299.00
	5/5			-130.00				-130.00	
AUTO REPAIR				20.00				1370.00	1299.00
		-3.75							
TACO JOHN'S		70.25							1299.00
503	5/8	-25.68	-16.49		-18.42				60.50
OSCO		44.57	119.60		2.58				1238.50

Example 4

RECORD ALL CHARGES OR CREDITS THAT AFFECT YOUR ACCOUNT									
NUMBER	DATE	FOOD	HOUSING	TRANS.	CLOTHES	PERS. CARE	MED.	REC.	BALANCE
									\$ 1070.50
BUDGET		300.00	590.00	360.00	120.00	30.00	50.00	80.00	1070.50
1530.00									
809	10/11			10.50					10.50
GAS									1060.00
810	10/11		434.00						434.00
MORTGAGE									626.00
811	10/12			+12.75					12.75
GAS				23.25					613.25
812	10/13		+12.95						12.95
CABLE			446.95						600.30
813	10/13		+95.00						95.00
MPC			541.95						505.30

waiting in line, ask the sales clerk to subtotal on the tape, then wait until you're in the car or at home to record the expenses under the appropriate category. Note check #503 on Example 3 was written for \$60.50. The amount was divided among three categories: \$25.68 for food; \$16.40 for housing; \$18.42 for clothes and personal care.

Can my check register be used to record cash expenses?

On Example 3, note the circled numbers. On May 5 this Montanan spent \$3.75 in cash for lunch. The \$3.75 was subtracted from the food budget, leaving \$70.25 for the rest of the month. The \$3.75 is circled to remind her it was a cash expense. Other cash expenses included \$24.00 for clothing and \$15.00 for medical care.

How can a check register be used to record credit card expenses?

When you make a charge, list the amount under each appropriate expense category. You may also want to list a credit card balance column so you can add or subtract the credit card balance as well. Then you'll know how much you've charged during the month and the arrival of the bill won't be a shock. In Example 3 this Montanan charged a car repair bill for \$130. She prefers to draw a box around credit charges so she can quickly see how often she has used her charge card. If the charge had been for a variety of items that fall under different categories, the totals would have been listed under the appropriate headings. Some families prefer to subtract the credit charge from the checking balance even though a check is not written, to assure that there will be the funds available to pay the bill in full upon its arrival.

What if I'd prefer to see how much I've spent instead of how much I have left?

This system can be easily adapted to show how much you've spent in each category any time during the month. When you write a check, simply add to the balance in the expense category instead of subtracting. On example 4, check #810 was written for \$434. Check #812 for \$12.95 was added to the mortgage payment for a total of \$446.95 spent for housing as of October 13. Be sure to set a limit on spending so you'll be able to achieve your financial goals.

Summary

The check register system has many advantages. It's simple. It allows you to have information at your fingertips about your spending situation. It provides you with immediate decision-making opportunity: yes, we can afford to eat out, no, we can't. It's compact—you can carry it with you at all times.

This tracking method also helps you evaluate your spending habits so you can better plan for a more secure financial future. Remember: this tool can easily be adapted to provide the kind of information you need to make decisions about your finances.

How to Order Your Check Register

Your MSU Extension Service has check registers developed specifically for this tracking system. The cost is \$1.00. Contact your Extension agent or write: Check Register, Extension Publications Office, MSU, Bozeman, MT 59717.

FILE UNDER: CONSUMER EDUCATION
J-1 (MONEY MANAGEMENT) MT8703 HRD

Reprinted March1991

Individual Retirement Accounts

by Marsha Goetting, Family Economics Specialist

An Individual Retirement Account (IRA) is one of the alternatives available to individuals for deferring income tax on money saved for retirement. The Economic Recovery Tax Act of 1981 enhanced the IRA tax incentives and made more individuals eligible to participate. The Tax Reform Act of 1986 set new limitations on who can take a deduction for IRA contributions. The Act also added non-deductible IRA contributions.

WHO IS ELIGIBLE?

Starting in 1987, eligibility for tax deductions for IRA contributions varies with earned income, marital status, and whether the individual or the spouse participates in an employer-sponsored retirement plan.

Earned income or compensation is defined by the Internal Revenue Service as wages, salaries, tips, commissions, professional fees and bonuses. Farmers and other small business owners may include their net income as compensation as long as they are an "active" partner.

Earnings and profits from property, such as rental income, interest or dividend income, are not considered compensation. Neither is income received from an investment in a limited partnership unless the income is in return for services provided to the partnership.

HOW MUCH CAN BE INVESTED IN AN IRA?

IRA contributions of up to \$2,000 or 100 percent of income below \$2,000 are permitted if the individual or married couple does not participate in a retirement plan at work.

If the individual and the spouse have earned income, participate in a retirement plan at work, file a joint return, and have an adjusted gross income of \$40,000 or less (\$25,000 for single taxpayer), 100 percent of the contribution up to \$2,000 is tax-deductible. If the adjusted gross income is between \$40,000 and \$50,000 (\$25,000 and \$35,000 for single taxpayers), the tax-deductible amount is gradually phased out. Income tax deductions are not allowed if one spouse is covered by a pension plan and the couple has an adjusted gross income of \$50,000 (\$35,000 single) or more. Payments to an IRA over the maximum per year are subject to a 6 percent penalty.

Non-deductible contributions of up to \$2,000 can still be made by those people not eligible to take a tax deduction for their IRA contribution. Income tax is paid up front on the contributions. Earnings on non-deductible IRA contributions are not subject to income taxation until they are withdrawn.

If one's total income is \$2,000 or less, the entire amount may be put in an IRA. For example, if a spouse earned \$1,700 working in the family business during the year, the total amount can be deposited in an IRA.

One-earner families may open a spousal IRA for the non-earning spouse. The spouse with earned income is responsible for opening the IRA. The couple may contribute a total of \$2,250. This total must be divided between the two accounts with no more than \$2,000 put in either IRA.

If a divorce or legal separation occurs, the spousal IRA can be maintained, subject to certain conditions. If the spousal IRA was set up at least five years before the year the divorce or separation was decreed, and if the earning spouse contributed for three of those five years, then a divorced or legally separated non-earning spouse may contribute up to \$1,125 a year out of alimony and incidental earnings. If the former non-earning spouse now earns income, he or she may contribute up to \$2,000 to the IRA.

HOW DOES THE TAX DEFERRAL WORK?

Tax-deductible IRAs—If a person meets the eligibility rules, the amount contributed to an IRA is deducted from gross income when figuring state and federal income taxes. For example, if a worker has taxable income of \$20,000 annually and contributes \$2,000 to an IRA, income tax is computed on \$18,000. In addition, all the interest earned on the money while in an IRA is also tax-deferred.

The payment of state and federal income tax is only delayed, not eliminated. Income tax is due when the money is withdrawn. Since withdrawal is usually during retirement, the tax rate may be lower.

Non-deductible IRAs—Earnings on deposits in non-deductible IRAs accumulate tax-deferred until withdrawn.

ARE THERE WITHDRAWAL RULES?

A key to understanding the rules of an IRA is the word "retirement." An IRA is tax-sheltered to encourage retirement savings for supplementing Social Security and pensions. The first rule is that contributions withdrawn from tax-deductible IRAs before age 59½ are subject to an IRS 10 percent penalty. In addition, the amount withdrawn must also be included as taxable income for that year. Financial institutions may have additional penalties. However, withdrawals, in the event of a death or serious disability, are not penalized.

Example: A \$10,000 IRA withdrawal before age 59½ is assessed a \$1,000 penalty by the Internal Revenue Service. The \$10,000 is added to other income and taxed at the individual's tax rate. If the federal tax rate is 28 percent and the state tax rate is 10 percent, the individual's early withdrawal would cost \$2,800 for federal income tax, \$1,000 for state income tax, and \$1,000 IRS penalty, leaving a net amount of \$5,200.

A person making withdrawals from non-deductible IRAs will face tax consequences. The withdrawal amount will be taxable on a pro rata basis, taking into account the ratio of the non-deductible contributions to the entire amount in the account.

Example: Charles has made a non-deductible, \$2,000 contribution to his IRA each year for five years. His non-deductible contributions total \$10,000. His earnings at the end of five years are \$1,501, leaving a balance of \$11,501 in the account. The percentage of non-deductible contributions to the balance is 87 percent ($\$10,000 \div \$11,501 = .87$). If Charles withdraws \$1,200, the amount tax-free is \$1,044 and the remaining \$156 taxable ($\$1,200 \times .87 = \$1,044$). Charles would also have a 10 percent penalty of \$15.60 on his earnings withdrawal ($\$156 \times .10 = \$15.60$).

The law requires that withdrawals from an IRA must begin by age 70½. An IRA must be depleted by the end of a normal lifetime. For example, the new life expectancy tables show a woman at age 65 is expected to live approximately 20 more years, to age 85. The withdrawal rate from her IRA must be such that the fund is depleted by age 85. The withdrawal rate may be recalculated each year so that IRA monies will not be outlived. She could also extend the pay-out period by using the joint life expectancy of her and her beneficiary.

HOW DOES DEATH AFFECT AN IRA?

A beneficiary is designated when an IRA is opened. At the account owner's death, the beneficiary receives the funds. These funds are considered taxable income on receipt. An IRA is not subject to federal estate taxes if the IRA funds are paid to the beneficiary during his or her lifetime or during a period of at least 36 months. However, a lump sum payment to the beneficiary is included as part of the account owner's estate for federal estate tax purposes.

MAY AN IRA BE MOVED?

Yes, an IRA may be moved by either a rollover or direct transfer. If the owner moves money from one tax-deferred IRA to another IRA, it's called a rollover. There is a limit of one rollover every 12 months if the withdrawal check is made out to the owner. The funds must be reinvested by the 60th day after the day the owner receives the IRA money.

If the withdrawal check is made out to a trustee, the move is called a direct transfer. There is no limit on the number of direct transfers allowed individuals. A financial institution may assess a fee or penalty for a rollover or direct transfer. For example, an early withdrawal of IRA funds in a five-year certificate of deposit would be treated like any CD and may involve a penalty equal to six months' interest.

WHERE TO SET UP AN IRA

IRAs are offered by banks, credit unions, savings and loan associations, insurance companies, mutual funds and investment brokers. Some employers offer IRAs with similar alternatives. Individuals should compare interest rates and compounding periods, early withdrawal penalties, fees, risks, maturity periods, personal management required and other important features. A worksheet is provided at the back of this publication.

Investors also should consider the costs involved in establishing an IRA. Federal regulation requires that an IRA be managed by a trustee. The institution chosen for the investment becomes the trustee. Usually, there's a trustee fee charged for managing the IRA.

Following are some of the options financial institutions are offering for an IRA:

Banks, savings and loans, and credit unions offer a variety of options on IRAs patterned after certificates of deposit (CDs). Interest rates can be fixed or variable. Rates can vary several percentage points among institutions, so shopping around will pay off. Generally, these financial institutions do not have management fees, but most have penalties for early withdrawal. Accounts in federally chartered banks, savings and loans, and credit unions are insured up to \$100,000.

Insurance companies offer Individual Retirement Annuities. Many insurance companies give investors a choice of investments and make switching between investments very easy. Rates of return vary greatly. Usually there is a 3 percent guarantee, but most remain competitive and pay money market rates. Management fees vary from a fixed fee (about \$30 per year) to a percentage of funds invested. Many insurance companies have an early withdrawal penalty of 6 percent to 10 percent, particularly in the early years of the policy. Money in an annuity is not federally insured.

Mutual fund companies provide a diversified portfolio of stocks, bonds or money market securities for an IRA investor. Placing money in mutual funds means buying shares in a pool of money that is invested in securities chosen by professionals. Fund families allow an investor to switch among funds, such as capital

growth, income or money market funds, as frequently as an investor desires. Mutual funds do not guarantee a specific rate of return. The general economic climate and type of fund influence the rate. While there is potential for great gain, there is also a possibility of loss. The return also depends on whether a commission is paid to a broker (a "load") or whether there is no commission (a "no load" fund). Most funds charge a management fee of about 1 percent of the value of the shares. Some mutual funds charge less.

Mutual funds seek to achieve their investment goals through diversified investments, but risk is involved. Investors should read and evaluate the prospectus. Money in a mutual fund is not insured.

Investment brokers offer the widest variety of IRA choices. Brokers can help the investor establish a portfolio of stocks, bonds, annuities and other investments such as limited partnerships. If the individual wants to manage his or her own investments, brokers can arrange for a self-directed individual retirement trust that will qualify as an IRA. The self-directed approach is suggested for people with \$10,000 or more in an IRA as a rollover or direct transfer alternative. Costs for broker fees and annual maintenance fees vary significantly. Investments through a brokerage firm are not insured against loss due to normal market action. However, client accounts are insured up to \$500,000 against loss due to fraud.

Certain U.S. minted gold and silver coins may be used as IRA investments effective January 1, 1987. The new

rule allows IRA investments only in U.S. one-ounce, half-ounce, quarter-ounce and tenth of an ounce gold bullion coins and a new one-ounce silver coin. These coins have been minted by the U.S. Treasury since October 1, 1986.

SHOPPING FOR AN IRA

The worksheet on back helps compare IRA options. Talking to IRA specialists at various financial institutions also can help. Investors should consider what an IRA can do for them. They must assess their willingness to take risks, age, retirement income needs, and the relative safety of their investment options. Generally speaking, the closer to retirement, the more conservative the investment choice, especially if retirees will be depending on IRA dollars as a major income source.

Individuals should carefully read the disclosure statement required by law. The trustee must explain all the income tax consequences of opening and maintaining an IRA. If the rate of return on an IRA is guaranteed or can be reasonably projected, this disclosure statement must project growth at the end of each of the first five contract years and at ages 60, 65 and 70. The statement must also provide start-up and management costs.

Investors should make a point of understanding the kind of interest, or other return, that is being offered. How will interest be calculated? Interest rates and fees will vary from institution to institution. Examples of additional questions are on the back.

Acknowledgement: Adapted from leaflet originally prepared by Judith E. Hornseth, Family Resource Management Specialist, North Dakota Cooperative Extension Service. Materials have been reviewed by representatives from: Montana Association of Life Underwriters, Montana Bankers Association, Montana Credit Unions League, and Montana League of Savings Institutions.

This publication is designed to provide educational information, not to render legal, accounting or other professional advice. If legal advice or other expert assistance is required, the services of a competent professional person should be sought.

	Commercial Bank	Savings & Loan Association	Credit Union	Insurance Company	Mutual Funds	Brokerage Firm	Other
1. Interest rate?							
2. Guaranteed rate? (fixed or flexible)							
3. Compounding & crediting frequency?							
4. Origination fee?							
5. Annual administration/ management fees?							
6. Charge or limits on rollovers?							
7. Charge for direct transfers?							
8. Distribution charges?							
9. Close-out fees?							
10. Funds federally insured?							
11. Minimum deposit requirement?							
12. Commission, "front load" or "end load" fee?							
13. Disclosure statement provided?							
14. Projection on growth? Amount you will have at end of ■							
Year 1							
Year 2							
Year 3							
Year 4							
Year 5							
At age 60							
At age 65							
At age 70							
15. Other							

FILE UNDER: CONSUMER EDUCATION

F-13 (Individual Retirement Accounts) MT8801 HRD

Issued February 1988

Replaces MT8332-8343 HRD

Estimating the Amount to Save for Retirement

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"How much should I be saving for retirement?" is a question asked by Montanans who are concerned about planning for an adequate income during their "golden" years.

The amount you should save annually depends on the benefits you are building through employment, the assets you have already accumulated and the lifestyle you want during retirement. The amount also will be affected by inflation and interest rates, neither of which can be predicted with perfect accuracy over periods of many years.

Therefore, any financial plan (this MontGuide included) that makes an estimate of the amount to save for retirement is a "best guess" rather than a fact. But such an estimate should help you decide whether your current savings are high, low, or just about right.

This guide shows you how to estimate the minimum annual savings (in today's dollars) to set aside each year to achieve the retirement lifestyle you desire. Planning ahead should contribute to a more pleasant and financially secure retirement.

Calculation Assumptions:

Any financial plan estimating the amount to save for retirement makes assumptions about income desired, interest rates, inflation, life expectancy, and plans for leaving assets to heirs. To better understand the estimates, you need to carefully examine the assumptions behind them.

The procedures outlined in this MontGuide make these assumptions:

1. Your designated retirement assets will earn a 2 percent rate of return after allowances have been made for taxes and inflation. If your assets earn a higher rate, you can meet your retirement goals while saving less. If your assets earn a lower rate, you will need to save more.

2. You intend to use all of your assets before you die. If you intend to leave assets for heirs, you must save more.

3. You will continue to work for a specific number of years before you retire.

4. The length of your retirement will be estimated using actuarial tables published by the Internal Revenue Service. These tables provide life expectancy years by sex and age. For example, a man retiring at age 65 is expected to live 15 more years. A woman retiring at age 65 is expected to live 18.2 more years. (The worksheet will allow you to increase the number of years of life expectancy if your family tends to live longer than average.)

5. Your income while working will keep pace with inflation. (Since 1900, incomes have increased faster than inflation by 2-3 percent per year. However, little real growth has occurred in the last 15 years. Thus, growth that matches inflation is a fairly conservative assumption.)

6. Your estimated pension plan benefits will be adjusted upward as your salary increases. (If this is not the case, you will have to save more than estimated.)

7. Yearly savings towards retirement are placed in taxable savings and investments. (If you put your savings in tax-free or tax-deferred investments, you may be able to achieve your financial goals for retirement while saving a smaller amount.)

If the preceding assumptions are not correct for your situation, different procedures and formulas should be used. Contact MSU Extension Economics for further information.

Procedure:

Review the calculation that follows for a Montana married couple, Nancy and Fred, who are in their mid-40s. Then use Plan A for your own figures. Use Plan B to explore alternatives such as delaying retirement or

increasing yearly income desired. Explanations of the type of information to be considered are provided for each step of the procedure.

Step 1. Write the number of years until you plan to retire on line 1. If you and your spouse anticipate retiring at different times you may want to average the years.

Nancy and Fred plan to work until age 65 so they wrote 20 on line 1. ($65 - 45 = 20$)

Step 2. Write the number of years during which you expect to be retired on line 2. You may wish to use the IRS life expectancy table as a guide (Table 1). If your family members tend to live longer, add the extra years to the numbers from Table 1.

According to Table 1 Fred has a life expectancy at age 65 of 15 years, Nancy 18.2 years. Their average life expectancy is 17 years. However, most of their relatives have lived longer than average, so they wrote 25 on line 2.

Step 3. Determine the total yearly income expected from Social Security, Federal Civil Service, and any other pension plans during retirement.

Step 3a. On line 3a write your estimated yearly Social Security benefit. Use Table 2 to make these estimates. For a more accurate figure, use the one provided on "Request for Earnings and Benefits Estimate Statement." The application form is available from your local Social Security office, by calling (1-800-937-2000) or by writing Social Security Administration, Albuquerque Data Operations Center, P.O. Box 4429, Albuquerque, NM 87196. The free statement shows your Social Security earnings history, tells you how much you have paid in Social Security taxes and estimates your future Social Security benefits.

Using Table 2 Fred discovered his estimated Social Security benefit is \$8,735 on his current income of \$20,000. Nancy's Social Security benefit is estimated to be \$7,150 on her current income of \$15,000. Their combined benefit totals \$15,885, which is the amount they wrote on line 3a. ($\$8,735 + \$7,150 = \$15,885$)

Step 3b. Use Table 3 to estimate Federal Civil Service retirement benefits (if eligible). Then estimate the amount that you anticipate remaining after federal and state income tax and write on line 3b.

For example, someone who worked 30 years with an average high three years of \$15,000 would receive a gross pension of \$8,400. He should not forget that the gross pension will be reduced by federal and state income taxes.

A zero was entered on line 3b because Nancy and Fred never worked under the

Federal Civil Service system.

Step 3c. On line 3c write the amount of your after-tax yearly expected company pension. Your employer should be able to provide you with the gross amount. Ask what monthly payment you will receive at today's salary assuming you will be employed by the company until you retire. Table 4 can be used to estimate pension benefits from your company.

Use the gross figure to estimate the amount you expect to be left after federal and state income taxes.

If you haven't worked for a company long enough to be eligible for a pension, enter a zero. If you have had several jobs but withdrew your retirement funds each time you left, enter a zero.

Using Table 4, Fred estimates his pension benefit to be \$3,865 at a salary of \$20,000 and 20 years of service. Nancy estimates her pension benefit to be \$3,240 at a salary of \$15,000 and 20 years of service. Their combined benefit totals \$7,105. They anticipate combined federal and state income taxes of about 15% during retirement so the amount they write on line 3e is \$6,039. ($\$7,105 \text{ income} \times .15 \text{ tax} = \$1,065.75 \text{ tax}$; $\$7,105 \text{ income} - \$1,066 \text{ tax} = \$6,039$) They withdrew their retirement funds from previous employment to use as a down payment on their home, so they will receive pension benefits only from their present jobs.

Step 3d. On line 3d write the sum of estimated Social Security income, Federal Civil Service income, and pension income. This is total yearly after-tax income "expected."

The after-tax sum Fred and Nancy expect to receive from Social Security and pensions totals \$21,924, which is the amount written on line 3d.

Step 4. Determine if (or how much) additional yearly retirement income is required.

Step 4a. On line 4a write the amount of annual after-tax retirement income that will provide the lifestyle you desire. Use today's dollar value. (Most couples plan to retire on an income that is 60 to 80 percent of their gross income before retirement.) The amount you need will depend on the anticipated living expenses for the lifestyle you desire.

Nancy and Fred would like to have an annual after-tax income of \$26,250. They expect their federal and state income taxes would be lower than presently. They will have the mortgage paid off, the children will be on their own, and they would like to enjoy some of the opportunities they denied themselves while the children were growing up. An annual income of \$26,250 (in today's dollars) is written on line 4a.

Estimating the Amount to Save for Retirement

Directions: Review the calculations on the worksheet for a Montana married couple, Nancy and Fred, who are in their mid-40s. Then use Plan A for your own figures. Use Plan B to explore alternatives such as delaying retirement or increasing yearly income desired.

Steps:	Montana Couple	Plan A	Plan B
1. Number of years until you plan to retire.	20	_____	_____
2. Number of years you expect to be retired.	25	_____	_____
3. Total yearly after-tax income expected from Social Security, Civil Service and pension plans.			
a. Estimated yearly Social Security benefit.	\$15,885	_____	_____
b. Add estimated Civil Service benefit.	0	_____	_____
c. Add estimated yearly company pension.	+\$ 6,039	_____	_____
d. Total yearly income expected	\$21,924	_____	_____
4. Determine if, or how much additional yearly retirement income is required.			
a. Projected yearly annual retirement living expenses in "today's" dollars.	\$26,250	_____	_____
b. Subtract total estimated Social Security and pension income (3d).	-\$21,924	_____	_____
c. Yearly income required to supplement Social Security and pension benefits.	\$ 4,326	_____	_____
5. Determine total amount to be accumulated by retirement in today's dollars to provide additional income during retirement.			
Multiplying			
Years	Number	Additional Income	
5	4.7		
10	8.9	a. Multiply 4c by formula derived number for years to be retired.	x 19.5
15	12.8		_____
20	16.4		_____
25	19.5		_____
30	22.4		_____
35	25.0		_____
40	27.4	b. Amount to be accumulated by retirement.	\$ 84,357
6. Estimate current value of owned assets that will be used to produce retirement income.			\$ 30,000

7. Determine value of "designated" assets at retirement.

Multiplying

Years	Number	Assets	
5	1.10		
10	1.22	a. Multiply line 6 by formula-derived number for years	
15	1.35	until retirement.	x 1.49
20	1.49		
25	1.64		
30	1.81		
35	2.00		
40	2.21	b. Value of assets at retirement.	\$44,700

8. Determine how much additional money, if any, should be saved by retirement.

a. Amount to be accumulated by retirement from line 5b.	\$ 84,357		
b. Subtract value of assets at retirement (from line 7b).	-\$ 44,700		
c. Additional savings to accumulate by retirement .	\$ 39,657		

9. Determine how much to save each year, if any, (in today's purchasing power) until retirement to achieve your chosen lifestyle.

Multiplying

Years	Number		
5	.192	a. Multiply line 8C by formula derived number for number	
10	.091	of years until retirement.	x.041
15	.057		
20	.041		
25	.031	b. Amount to save each year (rounded).	\$1,626*
30	.025		
35	.020	c. Amount to save monthly (9b + 12 =)	\$ 136
40	.017		

*The final "yearly savings" to be set aside for retirement is estimated in today's purchasing power. The amount will need to be increased annually by the rate of inflation.

TABLE 1: U.S. Life Expectancies*

Age	Men	Women
33	40.0	44.6
34	39.1	43.7
35	38.2	42.8
36	37.2	41.9
37	36.5	41.0
38	35.6	40.0
39	34.7	39.1
40	33.8	38.2
41	33.0	37.3
42	32.1	36.5
43	31.2	35.6
44	30.4	34.7
45	29.6	33.8
46	28.7	33.0
47	27.9	32.1
48	27.1	31.2
49	26.3	30.4
50	25.5	29.6
51	24.7	28.7
52	23.4	27.9
53	23.2	27.1
54	22.4	26.3
55	21.7	25.5
56	20.0	24.7
57	20.3	24.0
58	19.6	23.2
59	18.9	22.4
60	18.2	21.7
61	17.5	21.0
62	16.9	20.3
63	16.2	19.6
64	15.6	18.9
65	15.0	18.2
66	14.4	17.5
67	13.8	16.9
68	13.2	16.2
69	12.6	15.6
70	12.1	15.0
71	11.6	14.4
72	11.0	13.8
73	10.5	13.2
74	10.1	12.6
75	9.6	12.1
76	9.1	11.6
77	8.7	11.0
78	8.3	10.5
79	7.8	10.1
80	7.5	9.6

*Source: 1987 Actuarial Tables, IRS

TABLE 2: Social Security Benefit Estimates

Current Income	Worker Age 65 Annual Benefit	Spouse Age 65 Annual Benefit	Total Annual Benefit
\$15,000	\$ 7,150	\$ 3,575	\$10,725
20,000	8,735	4,365	13,100
25,000	10,620	5,300	15,920
30,000	11,025	5,505	16,530
35,000	11,750	5,865	17,615
40,000	12,525	6,265	18,790
45,000	13,275	6,640	19,915

TABLE 3: Federal Civil Service Benefits Estimate

High 3 Average Salary	Years of Service						
	10	15	20	25	30	35	40
\$15,000	\$2,400	\$3,900	\$5,400	\$6,900	\$8,400	\$9,900	\$11,400
20,000	3,250	5,250	7,600	9,250	11,250	13,250	15,250
25,000	4,050	6,550	9,050	11,550	14,050	16,550	19,050
30,000	4,900	7,900	10,900	13,900	16,900	19,900	22,900
35,000	5,700	9,200	12,700	16,200	19,700	23,200	26,700
40,000	6,500	10,500	14,500	18,500	22,500	26,500	30,500

TABLE 4: Average Corporate Pension Benefits

Annual Year's Earnings	Years of Service						
	10	15	20	25	30	35	40
\$15,000	\$1,690	\$2,475	\$3,240	\$4,000	\$4,725	\$5,885	\$5,985
20,000	2,040	2,955	3,865	4,750	5,615	6,355	7,030
25,000	2,490	3,635	4,725	5,860	6,900	7,765	8,600
30,000	2,980	4,370	5,935	7,020	8,225	9,230	10,110
35,000	3,485	5,120	6,685	8,210	9,590	10,800	11,795
40,000	4,015	5,900	7,670	9,440	11,005	12,365	13,455

Step 4b. On line 4b write the total anticipated annual income calculated on line 3d from Social Security, Federal Civil Service and pensions.

Nancy and Fred repeat the figure from line 3d of \$21,924 on line 4b. Their anticipated Social Security and pension income will provide 84% of their desired after-tax income. ($\$21,924 \div \$26,250 = 84\%$)

Step 4c. On line 4c write the result of subtracting the total amount of annual Social Security and pension income from projected annual retirement living expenses. This is the yearly income required to supplement Social Security and pension benefits to achieve the retirement lifestyle desired.

Our Montana couple subtracted \$21,924 from \$26,250 and found they will need an additional \$4,326 (in today's purchasing power) during each of their 25 years of retirement to meet their desired standard of living. They wrote \$4,326 on line 4c.

In the example the difference is greater than zero. If the amount on line 4c is negative, then Social Security and pension payments will more than provide the desired standard of living you have chosen.

Step 5. Determine the total amount to be accumulated by retirement in today's dollars to provide additional income during retirement.

Step 5a. Use the table in Step 5 to determine the multiplying number for the appropriate years in retirement. Write the number on line 5a. The number is derived from a formula that assumes your retirement assets will grow annually by two percent after taxes and inflation.

Since Nancy and Fred anticipate being retired for 25 years they use a factor of 19.5.

Step 5b. On line 5b write the result of multiplying the number from the table by the yearly amount of supplemental income. The figure is the amount to be accumulated by retirement to achieve your desired lifestyle.

Our Montana couple multiplies \$4,326 by 19.5 to find they will need a retirement fund of \$84,357 (in today's purchasing power) at the time of retirement. The fund will be used to provide additional income of \$4,326 per year during their 25 years of retirement.

Step 6. Write the total value of currently owned assets that you anticipate using for income purposes during retirement on line 6.

If you have IRAs, include them. Include the value of any other funds you have designated for retirement. Don't include such savings as your emergency fund if

you anticipate spending those dollars before retirement.

Nancy and Fred already have \$30,000 in savings that they have "designated" as retirement assets, which they write on line 6. (The fund includes \$10,000 in an IRA account, \$15,000 in U.S. Savings Bonds, and \$5,000 in CDs.)

They have an additional \$15,000 that they plan to use for their children's college education and a \$5,000 vacation fund. These assets totalling \$20,000 are not included in the computation because they will be depleted before retirement.

Step 7. Determine the value of your "designated retirement" assets at retirement.

Step 7a. On line 7a, write the multiplying number from the table for the appropriate years your assets have to grow until retirement. The number is derived from a formula that assumes a growth rate for assets of 2% allowing for inflation and taxes, and is the same factor used to calculate the amount necessary at retirement to achieve the lifestyle desired.

Since Nancy and Fred do not plan to retire for 20 years, they use the multiplying number of 1.49 on line 7a.

Step 7b. On line 7b write the result of multiplying line 6 by line 7a.

Our Montana couple multiplies \$30,000 by 1.49 with a result of \$44,700. This calculation assumes their "designated retirement" assets of \$30,000 will increase by two percent each year for 20 years after allowances have been made for inflation and taxes to a value of \$44,700 at retirement.

Step 8. Determine if, or how much, additional amount should be saved by retirement.

Step 8a. On line 8a write the amount to be accumulated by retirement from line 5b.

The amount to be accumulated by retirement for Nancy and Fred is \$84,357, which they write on line 8a.

Step 8b. On line 8b write the value of your "designated retirement" assets at year of retirement from line 7b.

The value of our Montana couple's designated retirement assets is \$44,700 which they write on line 8b.

Step 8c. Next, subtract the value of designated retirement assets (8b) from the amount to be accumulated at

retirement (8a) and place the result on line 8c. If the amount is positive then the figure is the additional savings to be accumulated by retirement. If the amount is negative, then no additional savings may need to be accumulated given the lifestyle you have chosen.

Nancy and Fred subtract \$44,700 from \$84,357 with a result of \$39,657. This means by retirement, they "should" accumulate \$39,657 if they want to provide an additional income of \$4,326 in purchasing power each year during retirement (for 25 years) to supplement their Social Security and pension.

Step 9. Determine if, or how much, to save each year (in today's purchasing power) until retirement to achieve the funds needed for your chosen lifestyle. The actual amount to save each year until retirement will need to be increased annually by the rate of inflation.

Step 9a. On line 9a write the multiplying number from the table in Step 9 for the number of years you are from retirement.

Nancy and Fred expect to retire in 20 years so they write the multiplying number .041 on line 9a.

Step 9b. Multiply additional savings to accumulate by retirement (line 8c) by multiplying number for appropriate years until retirement (line 9a). If the figure on line 9b is positive, this is the amount to save each year (in today's purchasing power) to supplement Social Security and pension income during retirement to achieve your chosen lifestyle.

The additional savings needed by Nancy and Fred are \$1,626 yearly (in today's purchasing power) or about \$136 monthly.

If they place their savings in an individual retirement account, the earnings will grow tax deferred. The amount contributed to an IRA is also tax deductible, which would reduce their present income tax. (For more IRA information, request MontGuide 8801.)

The actual amount to save each year until retirement will need to be increased annually by the rate of inflation. For example, if inflation is 5% next year they will need to increase their annual savings by about \$82 to \$1,708. ($\$1,626 \times .05 = \$81.30$)

Step 9c. Divide the amount on line 9b by 12 to determine the amount to save monthly.

Nancy and Fred need to save about \$136 monthly. ($\$1,626 \div 12 = \$135.50$)

If you are not saving yearly the amount calculated, now is the time to examine your finances and make new plans for your anticipated retirement. You may wish to consider possible alternatives such as:

1. Delaying retirement.
2. Increasing income now for a higher pension and/or more savings.
3. Spending less now and saving more.
4. Changing your savings and investments to ones that would yield more income.
5. Preparing for new work after retirement.

It is never too soon to start planning and saving for retirement, because time will work for you. It is never too late to make some changes, but the longer you wait, the fewer options you may have.

Remember these calculations are based on the set assumptions as described on page one. Your circumstances may require different assumptions. For example, if you are saving in tax-deferred investments such as an IRA, you may be able to achieve your financial goals for retirement while saving a smaller amount.

When to Re-Calculate Figures:

Keep in mind that if your circumstances change you will need to recalculate the amount to save. Examples of events that require a recalculation include but are not limited to: changes in income tax or Social Security laws, substantial increase or decreases in the purchasing power of your salary, receipt of a substantial inheritance, depletion of retirement savings because of a catastrophic illness, or buy-out of your company pension plan.

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FILE UNDER: CONSUMER EDUCATION
J-2 (MONEY MANAGEMENT)

Reprinted January 1991

1203000989CF

Schedule of Non-Monthly Family Living Expenses

By

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Money, Money, Money— where does it all go?

If you have a system for tracking your family living expenses on a yearly basis you know where your money goes. If, however, you have tracked your expenses for only a certain time period, such as two or three months, you may have forgotten about major non-monthly bills you pay during the year which did not come due during your tracking period. Examples of non-monthly bills include: property taxes, car and life insurance premiums, car license plates, filling the fuel oil tank, vacations and holiday gifts.

You may think your monthly living expenses are lower than they actually are. One family, for example, thought their monthly living expenses were around \$1,800 and developed their spending plan accordingly. They also established financial goals for the education of their children as well as their own retirement, and planned for a family vacation, all based on the \$1,800 figure. In reality, when non-monthly expenses were included, they were amazed to discover their *actual monthly* living expenditures were closer to \$2,126—a difference of \$326.

A financial planning tool that may help you determine the amount to allow for non-monthly expenses is a *Schedule of Non-Monthly Family Living Expenses* which has been included in this MONTGUIDE for your use. This form will give you a clear picture of how your non-monthly payments are distributed throughout a 12 month period. At a glance you can see when major bills are due and plan for them. The form will help you

calculate how much to set aside monthly so you can avoid the stressful feeling that often results when several major bills come due the same month and you don't have the funds set aside to pay for them.

A sample form and directions for filling it out follow. Use the blank form on page 4 to list your non-monthly expenses. After you have completed the form, keep it in an easily accessible place.

At the end of the year you may find adjustments are needed for certain amounts such as gifts or vacations. Adjust accordingly and make a new years resolution to make your *Schedule of Non-Monthly Family Living Expenses* as accurate as possible.

This MONTGUIDE is one of many financial management resources that are available from your Extension Agent or Extension Publications, MSU, Bozeman, MT 59717. Other publications include:

- *Montana Families: Taking Control During a Financial Crisis* (Bulletin 1342)
- *Helping People Cope With Financial Crisis* (MONTGUIDE HR 6808)
- *DOLLAR WATCH* (computerized budget analysis)
- *Using a Check Register to Track Your Expenses* (MONTGUIDE HR 8703, Revised)
- *Check Register* as described in MONTGUIDE 8703 (EB 50) \$1
- *Credit Control* (EB 21)
- *Debt Free by '??* (Bulletin 1261)
- *Financially Fit \$Me.00* (Bulletin 1326) \$2.00

How To Fill Out Your Schedule of Non-Monthly Expenses

1. List descriptions of non-monthly expenses which are due during the year in the *Item* column (first column, left side).

The family in the example anticipates expenses for holidays/birthdays, school supplies, car license plates, car servicing and tires, as well as car and life insurance, club memberships, newspapers, magazines, property taxes, and vacations.

2. Record non-monthly family living expense amounts in the space provided under the appropriate month. If you don't know the due dates, refer to previous year's returned checks.

This family expects to spend \$20 for holidays and birthdays in April, \$50 in August, and \$200 in December; \$207 for life insurance in October, car insurance of \$285 in February and August, and so on.

3. Total the amount to be spent for each non-monthly expense item horizontally (across) and place in the *Yearly Cost* column.

In the example, this family expects to pay \$560 in property taxes in May and another \$560 in November for a total of \$1,120. This is written in the *Yearly Cost* column on the *Taxes-Property* line.

4. Total the non-monthly family living expense amounts vertically (up and down) by month.

For example, in January \$87 is due to license the car. Since there are no other non-monthly expenses in January, \$87 is written on the bottom line beside the *Total Amount* column. In February, \$50 is required for membership dues and \$285 for car insurance. The total (\$335) is written on the *Total Amount* line for February.

5. To determine total yearly cost of non-monthly expenses, add figures in the *Yearly Cost* column.

This family adds figures of \$270, \$100, \$87, \$320, and so on in the yearly cost column for a total cost of non-monthly family living expenses of \$3,922.

6. Add the bottom line total amounts by month (January through December).

This family adds \$87 in January, \$335 in February, \$18 in March, \$20 in April and so on for a yearly total of \$3,922 non-monthly expenses.

7. The grand total of the *Yearly Cost* column and total amounts by month line should be identical. If they're not, perhaps you have made an error in addition. Recheck your figures in each column and line. Once they agree, go to Step 8.

8. Divide the yearly cost of each non-monthly item total by 12 to determine the average monthly cost.

This family anticipates paying \$87 for car license plates in January. The average monthly cost is \$7.25. This family plans to spend a total of \$1,050 for vacations for an average of \$87.50 per month, and so on.

9. Total the *Average Monthly Amount* column. This total should equal the amount of the yearly cost total divided by 12. If the two figures don't agree, possibly you have made an error. Recheck your figures horizontally and vertically.

In the example, the total of the *Average Monthly Amount* column (\$22.50) for holidays, \$8.33 for school supplies, \$7.25 for car licensing and so on equals \$326.83. The result of dividing the total in the *Yearly Cost* column (\$3,922) by 12 equals \$326.83.

10. Add the total of your *Average Monthly Amount* column to the expenses you tracked for the period of time. This will give you a more realistic idea of the average monthly living expenses for your chosen lifestyle.

Ideally, you should set aside monthly the average of your non-monthly expenses (\$326.83 in the example) in a separate checking or savings account. If you do, you should be able to promptly pay all your monthly bills and avoid the feeling of financial stress at bill paying time.

File Under: Consumer Education
J-3 (Money Management)
Reprinted September 1990

Schedule of Non-Monthly Expenses

Item	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Yearly Cost	Average Monthly Amount
Holidays / Birthdays				20				50				200	270	22. ⁵⁰
School - Books / Supplies									100				100	8. ³³
Car License Plates	87												87	7. ²⁵
Car Servicing / Tires					35						250	35	320	26. ⁶⁷
Union Dues Club Membership		50								85			135	11. ²⁵
Car Insurance		285						285					570	47. ⁵⁰
Life Insurance										207			207	17. ²⁵
Newspaper / Magazines			18			21			24				63	5. ²⁵
Taxes - Property					560						560		1120	93. ³³
Vacation						150						900	1050	87. ⁵⁰
Total Amounts	87	335	18	20	595	171	0	335	124	292	810	1135	3922	326. ⁸³

Set
Aside
←

Schedule of Non-Monthly Expenses

Item	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Yearly Cost	Average Monthly Amount
Total Amounts														

Set
Aside
↔

MT 9001 (HR)

Human Resource Development

Power of Attorney

by
Marsha A. Goetting, CEP, C.H.E.
Family Economics Specialist

What is a Power of Attorney?

A power of attorney is a written, notarized document in which one person gives another person the power to do certain acts on his or her behalf. These acts could include selling property, depositing or withdrawing funds from checking or savings accounts and paying bills.

A **power of attorney** differs from a guardianship or conservatorship. Each of these is a legal relationship ordered by the district court for the protection of a minor or incapacitated person. Montana law defines a **guardian** as someone who is legally empowered and charged with the duty of *taking care* of another who, because of age, intellect or health, is incapable of managing his or her own affairs. Montana law defines a **conservator** as a person who is appointed by the district court to *manage the affairs* of a protected person, who because of age, intellect or health, is incapable of managing his or her own affairs.

The person giving the power of attorney is called the **principal**. The person to whom the power is given is called **attorney in fact** or an **agent**. Obviously, the person selected to receive the power-of-attorney should be someone who can be trusted and who is somewhat knowledgeable about finances because of the financial nature of the duties.

How Do I Grant Someone a Power of Attorney?

Although it is not essential that you see an attorney to have a power of attorney document drafted, you may want to do so. Legal assistance can assure that you grant only as much power to someone else to act on your behalf as necessary and only under specific conditions.

What Kinds of Power of Attorney Are There?

There are two kinds of power of attorney: **general** and **special**. A "general" power of attorney grants the person receiving the power (agent) permission to do anything for the one granting the power (principal).

For example, a homebound elderly mother may want her daughter to have the authority to write checks and pay for groceries, medicine and other personal items. The mother may grant a general power of attorney to her daughter to perform these types of financial tasks.

An example of how a general power of attorney could be written follows:

I, (Name of Principal), hereby authorize (Name of Attorney in Fact), to (Example: handle all my financial affairs and generally do and perform all things as fully in all respects as I could if I were personally present).

DATED this ____ day of _____, 19__

(Signature of Principal)

SUBSCRIBED AND SWORN to me before this ____ day of _____, 19__

(Notary Public for the State of Montana)

(SEAL) Residing at _____, Montana

My Commission expires _____

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A "special" power of attorney limits the actions to specific actions, such as buying a particular piece of property or paying bills while the person who granted the power (principal) is out of the country.

For example, a Montana National Guardsman assigned to Germany for six weeks may wish to write a special power of attorney authorizing his wife to sell their home. He could also indicate he is granting permission for her to cash in a Certificate of Deposit titled in his name only that reaches maturity while he is out of the country.

Persons confined to a nursing home, for example, may wish to write a power of attorney authorizing relatives or trusted friends to make deposits to, but not withdrawals from, their savings accounts.

An example of how a **Special Power of Attorney** could be written is provided below.

I, (Name of Principal), hereby authorize (Name of Attorney in Fact), to (Example: collect all checks or monies due to me, endorse my name to any checks, money orders, drafts or warrants payable to me and to cash the same, and...). This special power of attorney is to end one year from the date it is executed, unless revoked earlier by myself.)

DATED this ____ day of _____, 19__

(Signature of Principal)

SUBSCRIBED AND SWORN to me before this ____ day of _____, 19__

(Notary Public for the State of Montana)

(SEAL) Residing at _____, Montana
My Commission expires _____

How Long Does the Power of Attorney Last?

A person may specify that the power of attorney last indefinitely or for a certain period of time such as a month.

How Do I Cancel a Power of Attorney?

A principal may cancel (revoke) his/her power of attorney at any time by signing a document with much of the same information as the document granting the power. The document should clearly state that the power of attorney is revoked. If the person to whom the power was granted has conducted business with financial institutions or any other person, a copy of the revocation should be sent by certified mail to these people. This action clarifies that the person who was attorney in fact is no longer serving that capacity. Until the financial institutions or persons receive evidence of revocation of the power of attorney, the principal (one who gave the power) may still be legally bound by any financial actions taken by the person to whom the power was granted. An example of a **Revocation of Special Power of Attorney** follows:

I, (Name of Principal), hereby REVOKE all powers of attorney granted to (Name of Attorney in Fact) on (Date). These revoked powers include, but are not limited to, the power to (Example: collect all checks or monies due to me, endorse my name on any checks, money orders, drafts or warrants payable to me, and to cash the same).

DATED this ____ day of _____, 19__

(Signature of Principal)

SUBSCRIBED AND SWORN to me before this ____ day of _____, 19__

(Notary Public for the State of Montana)

(SEAL) Residing at _____, Montana
My Commission expires _____

What is a Durable Power of Attorney?

Generally, a power of attorney ceases if the person granting it becomes incapacitated. But, through what's known as a "durable power of attorney," a person can plan ahead to have the power

of attorney survive any disability he or she could suffer. To provide a durable power of attorney, the person must include in his written document a statement of this intention. Without such a statement, the person granting a power of attorney may be without someone authorized to act on his or her behalf at a time when he or she would most need one.

What is a Springing Power of Attorney?

A "springing durable power of attorney" can be used when the principal (person giving the power) doesn't want the person to whom he granted the power to have any authority until the principal is determined to be incapacitated and unable to direct his or her own affairs. The durable power of attorney is said to "spring" into existence upon the disability of the person granting the power. The term disability should be defined in the document. Disability could be defined as the principal being in a coma or diagnosed by a medical doctor as having Alzheimers or other debilitating disease.

The power of attorney could be conditioned upon the agent presenting a written statement signed by a physician licensed to practice medicine in any state. As a practical matter, the agent would therefore have to present that statement as well as the power itself when dealing with third parties. A cautious third party may wish to verify with the appropriate licensing board that the physician is, in fact, licensed to practice. A more cautious third party may not accept any written statement that is dated well before the agent's attempted use of the power. There could be other potential problems. These practical considerations cause many attorneys to recommend durable powers that are effective immediately upon execution.

By planning ahead and writing a springing durable power of attorney, a person can reduce the

need for relatives or friends to incur the expense and time of petitioning the district court for a guardianship and/or conservatorship.

Are There Problems With Powers of Attorney?

One common problem with the power of attorney is that sometimes the person giving the power tends to grant it in too broad a manner. Another possibility is that the power could be granted to someone who turns out to be untrustworthy.

For example, one very elderly Montana woman granted power of attorney to a niece because the aunt was having trouble handling her daily finances. The niece cashed in all of her aunt's certificates of deposit and moved to another state. The only source of income for the aunt was a meager Social Security check.

A power of attorney "can be a very useful instrument if used properly but it can be vulnerable to abuse. When you give a person this power, there should be no doubt about his or her integrity and his or her ability to perform the duties," says a representative of Montana's Seniors' Office of Legal and Ombudsman Service. Relatives, the representative added, are sometimes "the worst ones," not necessarily because they're crooks, but because they begin to rationalize that they have a right to the principal's resources. They may think, "I've used my own gas to run all these errands." Or, "my grandmother can't really enjoy this money anymore."

Summary

Anyone considering granting a power of attorney should be as specific as possible about what powers are being given and for how long. Legal assistance is recommended to develop a document that conveys your intent with a power of attorney.

Disclaimer

This publication is not intended to be a substitute for legal advice. Rather, it is designed to help families become better acquainted with some of the devices used in estate planning and to create an awareness of the need for such planning. Future changes in laws cannot be predicted, and statements in this MontGuide are based solely upon those laws in force on the date of publication.

The State Bar of Montana Tax and Probate Council has approved this MontGuide and recommends its reading by all Montanans.

File under: Consumer Education
D-6 (Estate Planning)
Reprinted February 1992
1683000292 MS

Financing a College Education: Investment Alternatives

by

Marsha A. Goetting, CFP, C.H.E.
Extension Family Economics Specialist

Are you planning to provide your children with education beyond high school? If yes, what type will it be? Vocational/technical training or an associate degree program at a community college or vocational technical center? A bachelor or master's degree from a four year public or private college or university? If you and your children have agreed that further education is an important goal, several questions may immediately come to mind. What financial resources are needed? How will those resources be acquired? What savings and investment strategies should be considered?

This MONTGUIDE focuses on the variety of investment alternatives that can be used to finance education beyond high school. The publication also examines the advantages and disadvantages of trusts, custodial accounts, zero coupon bonds, and home equity loans. If you are interested in determining how much will be needed to meet the financial challenge of college costs, request the MSU Extension MONTGUIDE 9103 (HR), "Estimating the Amount to Save for College."

Investment Criteria

What considerations are important to you and your child when selecting a savings or investment alternative to acquire or accumulate funds to pay for college? Important considerations in the decision making process are: contribution amounts, convenience, ownership of the fund, risk, tax considerations, and the number of years until the child enters college.

Contribution Amount—Will your contribution be one-time? Or, will you make monthly or irregular contributions? Is a minimum or maximum contribution required to open the account or initiate an investment? Is there a minimum deposit specified after the initial deposit?

Convenience—Will the account be simple to establish? Will the paperwork be overwhelming? Is making deposits to the account easy or difficult? Can auto-

matic deposits be made from checking or savings accounts? Can automatic purchases be made from paychecks, such as in the case of Series EE U.S. savings bonds?

Ownership of the fund—Do you want the child to have control of the money now, in the future, or at all? If the account is in the child's name, the parent may not be able to retrieve the money should the child decide not to attend college or if the money is needed for a family emergency. If the parent uses the child's funds, unintended income tax consequences may result. Ownership of assets affects financial aid eligibility. Eligibility for Federal Student Aid programs is currently based on need. In the computation of the eligibility, parents are expected to make available about 6 percent of income and assets while students are expected to make available about 35 percent.

Risk factor with the investment?—What is your "risk comfort level"? Many parents avoid high risk investments with college funds since they want the money to be there when it is time for their child to go to college.

Tax considerations—Will investment contributions be made before or after taxes have been taken out? Will investment earnings be tax exempt, tax deferred, taxed as ordinary income to the parent or to the child? A child's annual investment income over \$1,000 is taxed at the parent's marginal tax rate until the child turns 14, then the income is taxed in the child's bracket. Earned or employment income of a child is taxed at the child's marginal rate. (The marginal tax rate is the rate at which the last dollar earned is taxed.)

Number of years before child enters college—If the investment is initiated several years before the child enters college, growth-oriented and tax-deferred investments are more attractive alternatives. However, if a child is within a few years of entering college, financial advisors suggest a shift from growth-oriented investments to income-oriented investments. Income-oriented investments usually do not fluctuate

in value as much as growth oriented investments and thus may insure a steadier flow of income to pay tuition, books, fees, and living expenses of a college education.

Investments for Parents

Your college savings plan may need to be revised periodically to reflect unanticipated changes in tax laws, in economic trends, and in your financial situation. The type of investments in your college savings portfolio will influence its growth. Some investments will grow more rapidly than others. The earnings may or may not be subject to income tax depending upon the type of investment.

The savings and investment alternatives can range from low to moderate risk. Generally, the yield on less risky investments is lower than the "potential yield" on risky investments. Low to moderate risk investments include savings accounts, certificates of deposit, U.S. savings bonds, Treasury bills, money-market and mutual funds, U.S. government bonds (including zero-coupon bonds), investment grade corporate bonds, and municipal bonds. Several investments such as certificates of deposit, municipal bonds, and zero-coupon bonds can be purchased with staggering maturity dates to meet the costs of a college education.

Investments for Children Under Age 14

The Tax Reform Act of 1986 changed the tax treatment of investment or unearned income of a child under the age of 14. The major change is that a portion of the investment income of a child under 14 is no longer taxed at the child's marginal tax rate. Of the first \$1,000 of investment income of a child under age 14, \$500 is tax-free and \$500 is taxed at the child's rate. For most children the rate is 15 percent. The child's investment income in excess of \$1,000 is taxed to the child at the parents' marginal tax rate. (The marginal tax rate is the rate at which your last dollar earned is taxed.) For many parents the rate is 28 percent.

If your objective is to maximize after-tax accumulation, financial advisers suggest savings and investments that contain one of the following features:

- Taxable income is deferred until child is age 14.
- Income that is tax-free.
- Produces little or no immediate taxable income during the years a child is under the age of 14 but has potential to appreciate in value by the time a child enrolls in college.

Investments for Children 14 Years of Age and Over

When a child reaches age 14, all earnings from the child's savings and investments are taxed at the child's marginal tax rate. A strategy used by some parents to reduce income taxes is to transfer ownership of some of their assets to a child who is 14 years of age and over. One disadvantage of this action is that the parents no longer retain control over the assets. Another consid-

eration is that the federal gift tax consequences of such transfers may outweigh the advantages. Another disadvantage is that the income and assets of a college student are weighed more heavily than those of parents in determining the amount of financial aid for which the child may qualify.

For more detailed information about the advantages and disadvantages of investment alternatives for your specific situation, see your personal banker, a financial adviser, or an investment broker.

Use of Trusts

The Tax Reform Act of 1986 eliminated the tax advantage of using certain trusts as a means of shifting income to an individual in a lower tax bracket. Two trusts, however, survived in the new tax act—2503(c) and 2503(b). Either of these trusts may be used to fund a college education.

With the Section 2503(c) trust, a parent can annually place up to \$10,000 into a trust for a child without triggering the federal gift tax. If both parents give the gift jointly, up to \$20,000 can be placed annually into a trust for the child. The tax benefit of the 2503(c) trust is that the first \$500 of earnings is tax free and the next \$500 of earnings in the trust for the year is taxed at the child's rate. Interest income in excess of \$1,000 is taxed at the parents' marginal tax rate. A disadvantage from a parent's perspective is that when the child reaches age 21, the unspent principal and earnings must be paid to the child. While the trustee is not required by law to use the principal and earnings for education of the child, the trustee must be given the discretion to spend the trust property and income for the benefit of the child before he/she reaches age 21.

The Section 2503(b) trust is similar to the Section 2503(c) trust. If a 2503(b) trust is properly drafted, the principal and accumulated earnings do not have to be distributed by age 21. A Section 2503(b) trust may require an annual distribution of income to the beneficiary (child) and, as a result, the accumulation of earnings is slower.

When establishing a trust, enlist the services of an attorney who is knowledgeable about them. Properly setting up a 2503(b) or 2503(c) trust is very technical and can cost several hundred dollars. Trusts may be cost-effective for some, but not all, parents because of the potential tax savings. There is no assurance, however, that future changes in tax laws will not affect the way earnings from a trust are taxed. Keep abreast of changes in these laws by contacting your attorney and/or your certified public accountant.

Use of Custodial Accounts:

Under the Uniform Transfers to Minors Act (UTMA), a parent can open a custodial account for a child. A custodial account is held in the name of a designated adult custodian for the benefit of a child. Although the assets placed in the account belong to the child, control over them is not transferred to the child until he or she reaches the age of 21.

Gifts of up to \$10,000 each year per giver (\$20,000 if both parents give a gift jointly) may be placed into a custodial account without triggering federal gift tax liability. An advantage of a uniform transfers to minors account is the potential for tax savings—the amount being dependent on the age of the child. Another advantage is that they are relatively simple to set up. A custodial account can be started at a bank, a savings and loan association, a credit union, a mutual fund, or a brokerage firm.

One disadvantage with the UTMA custodial account is that the assets no longer belong to and may not be used by the parent. The parent would not have access to the funds for an unforeseen family financial emergency. Another drawback is that a custodial account could affect a child's eligibility for financial aid. The treatment of custodial accounts varies from educational institution to institution.

The selection of a custodian needs to be made with care. Only one person can serve as the custodian for the account. The custodian can be a parent, a person, or a trust company. There are advantages and disadvantages in having a parent serve as custodian. If a parent is the custodian, the custodial property must be kept separate and apart from the parents' property and no charge for administering the account can be made. A non-parent custodian has the right to charge a fee for management of the account. Another disadvantage is that the money becomes part of the parent's estate for Federal estate tax purposes if the parent dies while the custodial account is in effect.

Use of U.S. Savings Bonds

U.S. savings bonds offer two options for funding a college education. Each offers a lessening of income tax liability under certain conditions. One option provides for redemption without income taxes under certain conditions while the other lessens the income tax liability when the bonds are purchased in the child's name.

Option 1 - Income Tax Free Redemption

The Miscellaneous Revenue Act of 1988 provides that qualified U.S. savings bonds (Series EE) can be redeemed free of income tax if the proceeds are used for qualified higher education expenses of the bond purchaser, a spouse, or a dependent. Qualified bonds are Series EE bonds issued after December 31, 1989, to a taxpayer who has reached age 24. The owner must use the principal and interest proceeds for qualified education expenses in the year in which the bonds are redeemed.

The interest exclusion is not available to married taxpayers filing separate returns. The exclusion is phased out for higher-income taxpayers. The phase-out of the interest exclusion applies to single taxpayers or head of household filers with a modified adjusted gross income from \$40,000 to \$55,000 and for joint returns with modified adjusted income from \$60,000 to \$90,000. The interest exclusion is lost completely to

single or joint return taxpayers whose modified adjusted gross incomes exceed \$55,000 or \$90,000 respectively.

The exclusion of interest earned isn't available for bonds that are owned by someone other than the buyer. Bonds purchased by a parent and put in a child's name do not qualify for the interest exemption. Similarly, bonds purchased by a grandparent or other relative do not qualify for the interest exemption—even if the bonds are put in the parent's name.

Option 2 - Taxed at Child's Rate

Another alternative for lessening the income tax liability is to buy savings bonds in your child's name using your child's Social Security number. Bonds purchased under this arrangement do not qualify for the interest exclusion mentioned previously. You may have yourself listed as beneficiary but not as co-owner, or a tax liability will be incurred. The first \$500 of interest income is tax-free for a child under age 14. The next \$500 is taxed at the child's marginal tax rate and the amount of interest earned above \$1,000 is taxed to the child at the parent's marginal tax rate.

Interest can be declared annually on series EE bonds by filing a federal tax return in the child's name. Interest earned to the date of filing for the previous tax year is listed. This declares the intent of reporting savings bond interest annually. No further returns need to be filed until the child's annual income exceeds the filing limitation established by the Internal Revenue Service. You may also choose to defer reporting of interest on the child's savings bonds until he or she reaches age 14. You may then report the deferred interest and change to annual reporting, all at the child's tax rate. Consult with your certified public accountant for advice concerning the proper methods for reporting this income.

Use of Zero Coupon Bonds:

Zero coupon bonds pay no annual interest but are sold at a discount. There are no coupons to clip to exchange for annual or semi-annual interest payments. For example, a \$1,000 zero yielding 9 percent and maturing in 20 years costs about \$179. Zero coupon bonds are issued by the U.S. Treasury, corporations, municipalities, states and public authorities. They can be purchased through brokers or mutual funds.

An investor pays yearly federal income tax on the earned interest even though the funds are received only when the bond matures. The bonds can be placed in the your children's names so the income is taxable to them. Of the first \$1,000 of investment income of a child under age 14, \$500 is tax-free and \$500 is taxed at the child's rate. Any excess interest is taxed to the child at the parents' marginal tax rate.

Don't assume all zero coupon bonds yield the same amount of return. Yields vary depending on the commissions paid to the brokers. Some zero coupon bonds also carry an "early call" option. This means the issuer may reclaim the bond after returning your initial

investment, paying the interest accumulated up to the call date, as well as a penalty. Some bond issuers guarantee a return over a minimum number of years. Consult your professional investment advisor to compare availability, yield, and type of bond that fits your educational plans.

Use of Home Equity Loans

Interest that is paid on personal loans and other debts not incurred for a business or other qualified purpose is (as of 1991) non-deductible. Interest on student loans is considered as personal interest, only 10 percent of which will be deductible in 1990, and none of which will be deductible in 1991 and later years.

The exception to the non-deductible rule is "qualified residence interest." Interest paid on mortgage debt is, in general, income tax deductible and may provide a mechanism by which to finance higher education costs. Qualified residence interest consists of two parts: 1) interest paid on the debt used to acquire the residence (acquisition indebtedness), and 2) interest paid on the debt other than acquisition indebtedness, secured by an appropriate lien (usually a second mortgage) on a qualified residence (home equity indebtedness).

A taxpayer can claim an interest deduction on a home equity loan on his or her principal residence as well as on a second residence. A "qualified residence," whether it be the principal residence or the secondary residence, may include a house or an apartment in a

cooperative housing corporation, or a time-share residence. Consult a certified public accountant before applying for a home equity loan to determine that interest paid on the loan will be income tax deductible.

Home equity indebtedness may not exceed \$100,000 (\$50,000 in the case of a separate return by a married individual) and is roughly defined as the difference between the fair market value of the qualified residence securing the debt, and the amount of any acquisition indebtedness on the qualified residence.

Before deciding on a home equity loan to finance college expenses, a parent should carefully examine the indirect costs of equity loans charged by lenders. Ask the financial institution about origination fees, charges for discount points, loan fees, credit reports, additional title insurance costs, and other similar or related loan closing expenses.

Summary

There are a variety of investment alternatives for financing a college education. Among them are savings accounts, certificates of deposit, U.S. savings bonds, money market and mutual funds, and so on. Trusts and custodial accounts may be used, by some families, to reduce or shift the tax liability. Other alternatives to acquire funds or shift tax liability include zero coupon bonds and home equity loans. Important considerations when making a selection are: contribution amounts, convenience, ownership of the fund, risk, tax considerations, and number of years until child enters college.

Acknowledgement:

This publication has been reviewed by representatives from the Montana Society of Certified Public Accountants, and State Bar of Montana, who recommend its reading by parents who are preparing to finance a college education for their children.

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File under: Consumer Education
H-14 (Investments)
Issued January 1991 15620000191MC

LIVING TRUSTS

by

Marsha A. Goetting, CFP, C.H.E.

Living trusts have been promoted as the ideal solution for Montanans who wish to secure a wide variety of financial planning objectives. Avoiding probate and taxes are the primary goals of some. Others are concerned about protecting assets for family members should they be confined to a nursing home for a long period of time. Another may feel the need for investment assistance because of his or her inexperience. Still others want a way to continue their business if they should become disabled. Are all these objectives possible? The answer is yes—but the most appropriate legal tool to accomplish each one may not be a living trust.

What is a Living Trust?

A revocable living trust is just what its name implies—one that is created during an individual's life and which can be changed and terminated at any time. It is a legal arrangement by which an individual transfers assets to a trustee who manages the assets for the beneficiaries designated in the trust agreement. Beneficiaries named in the trust agreement can be the individual who formed the trust, friends, family members, a college, a hospital, a library, a charity or other organization. Any type of asset—cash, certificate of deposits, stocks, bonds, life insurance or real estate—can be placed into a living trust.

The person providing assets for the trust is called the **trustor** or **grantor**. The trustee manages the assets according to the directions in the trust agreement. The trustee can be the person creating the trust, several individuals, a corporate entity such as a bank or trust company, or any combination of these.

A **trust agreement** is a document containing instructions to the trustee stating, for example,

who is to receive income from the trust and when and how it is to be distributed. When the trust terminates, the agreement designates the distribution of the assets to the beneficiaries who are named in it.

Considerations in Forming a Living Trust

Consider the following issues to determine whether a living trust would fit into your specific financial planning goals:

- **Tax Consequences.** A living trust has been "promoted" by some as a tax avoidance tool. However, a living trust *does not* provide the tax savings that are often attributed to it. Income earned in a revocable living trust is taxed to the person creating it (grantor) and must be reported on his or her personal state and federal income tax returns. No federal gift tax is payable upon the creation of a revocable living trust because the trust, once formed, can be changed at any time by the person forming it.

Present law requires the value of living trust property to be included in the grantor's estate upon his or her death. Since the grantor is viewed as having control of the assets, their value must be included for determining federal estate and Montana inheritance and estate tax. Typically, the following rights are reserved by the grantor when he or she forms a living trust: to amend the trust, to change the beneficiaries, to change the trustee, to change the date of termination or to change the entire trust by revoking it and having the property returned.

If none of these rights or similar rights are retained by the grantor, then the trust becomes irrevocable and the value of the assets in it are subject to federal gift taxation at the time the trust is formed. At the death of the grantor, the value of assets in an irrevocable trust are not usually subject to the Federal estate and Montana inheritance and estate tax.

- **Probate Consequences.** Probate in Montana is not nearly as burdensome as it is in other states which have not adopted the Uniform Probate Code. In some states probate can be quite costly, as the attorney and personal representative must appear before the court for approval of almost every act involved in probating an estate. In Montana, formal approval by the court is not required for any action authorized in the Uniform Probate Code. The Montana Uniform Probate Code specifically exempts from probate the following: assets in living trusts, property owned as joint tenants with right of survivorship, payable-on-death deposits, and life insurance payable to a named beneficiary.

How much of your present estate is subject to probate? Typically only solely-owned property or a deceased's share in tenancy in common property is subject to probate. However, even for non-probate property there are reporting requirements for inventory and Montana inheritance taxes, and perhaps Montana and federal income taxes.

Even if your property is subject to probate, your heirs have the right to ask the attorney to handle the case on an hourly fee basis which may be less than the maximum statutory percentage. In Montana the maximum charge allowed for the attorney is one and one half times the amount allowable to the personal representative. The percentage for the personal representative (which is a maximum fee) is three percent of the first \$40,000 and two percent in excess of that amount.

For example, on a \$200,000 estate, a personal representative could receive a maximum of \$4,400 and the attorney \$6,600.

$(\$40,000 \times .03 = \$1,200;$
 $\$160,000 \times .02 = \$3,200;$
 $\$1,200 + \$3,200 = \$4,400;$
 $\$4,400 \times 1.5 = \$6,600).$

An hourly fee could result in less expense for the estate and/or heirs, especially if the individual accomplished estate planning before his/her death.

There is no guarantee that a living trust will save money over probate. For example, if you use a paid trustee such as a bank or trust company, management fees over the years could easily exceed the cost of probate. Trust fees are often based on a percentage of income or principal, with annual minimums ranging from \$500 to about \$2,500 depending upon the institution. Many institutional trustees won't accept trusts with under \$50,000 in assets.

- **Protecting Assets For Heirs.** With nursing home costs averaging \$22,000 a year, many parents are concerned with preserving assets for their heirs. One source of assistance is Medicaid. But to be eligible an applicant must not have cash and other nonexempt assets exceeding \$2,000 as an individual, \$3,000 as a couple. Assets in a living trust would be considered as nonexempt assets. A home placed in a living trust is not exempt from creditors' claims. The one exception to the general rule is the family home; as long as one spouse is living at home, he or she can't be forced to sell the home to pay for the other's nursing home care. The state of Montana, however, can make a creditor's claim on the estate after the surviving spouse has died to recoup the nursing home costs. However, the Montana homestead allowance protects value in a home up to \$20,000. The homestead allowance is exempt from and has priority over all claims against the estate.

In the past a spouse couldn't be forced to pay for more than a month of the care of an institutionalized spouse applying for Medicaid. Starting October 1, 1989, however, the spouse at home may be required to dip into his or her assets. A living trust would be considered as a non-exempt asset. For more specific information about the new requirements, contact your County Welfare Office.

Those who are concerned about nursing home costs should explore a long-term care insurance policy to see if it would better meet their financial planning goals than does a living trust.

- **Is an Inexperienced Investor a Concern?**

There are many instances where inexperienced investors may prefer placing assets in a living trust until they feel the confidence to take over management themselves. For example, a recent widow has had very little investment experience and does not want to be responsible for investing the sizable amount of money she received upon the death of her husband. Although she is willing to learn more about investing, she needs the emotional security of having someone else manage her assets for her temporarily. Once she has gained confidence, the revocable living trust allows her to take over the management of the investment assets.

- **Disability.** Advancing age or serious illness may render a person incapable of either supervising his or her investments and business, or making necessary payments for his or her well being. A living trust could be a management tool. For example, a retired bachelor with only

distant relatives suffered a severe heart attack and was away from his business for several months. As a result of that experience he chose two living trusts—one naming a corporate trustee for his investments and the other naming a trusted partner for the business. Under this arrangement his investments are being continually supervised and, if he should become incapacitated, the corporate trustee can step in to take care of his living expenses. An alternative to a living trust may be a power of attorney (see MONTGUIDE 9001).

Summary

Before establishing a living trust, make a list of financial planning objectives you wish to achieve. Then discuss your needs with professionals such as an attorney, a trust officer, a certified public accountant and/or a certified financial planner. They may suggest an array of financial planning tools that could better help you achieve your goals than a living trust.

DISCLAIMER

This publication is not intended to be a substitute for legal advice. Rather it is designed to help families become better acquainted with some of the devices used in financial planning and to create an awareness of the need for such planning. Future changes in laws cannot be predicted and statements in this MONTGUIDE are based solely on those laws in force on the date of publication.

The State Bar of Montana Tax and Probate Council has approved this MONTGUIDE and recommends its reading by all Montanans.

File Under: Consumer Education
D-7: (Estate Planning)
Reprinted November 1990

12430000290MC

ESTIMATING THE AMOUNT TO SAVE FOR COLLEGE

by

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"How much should I be saving for college?" is a question asked by parents who are concerned about meeting the financial challenge of education for their children beyond high school (including vocational and technical training, community college, university, and so on). The process for estimating the minimum annual and monthly savings to set aside is outlined in this MONTGUIDE.

In this country college education is funded from a variety of sources: state and federal tax dollars, grants, private donors, student and family savings. Some parents assume primary responsibility for paying for the students' education expenses; other parents believe their responsibility for education of the children ends at high school. What are your feelings about assisting your child? Are you willing to pay all or a portion of the tuition and living expenses? Are family members willing to allocate money from present income to save for the child's future educational expense of college? Will you, as a parent, be able to save for both your child's continued education and your retirement?

The amount to save to finance the education of your child depends on:

- the sum of money, if any, you have already accumulated in an education fund,
- income the child will save from part-time jobs, and
- anticipated dollars from scholarships, loans, grants and work study.

Keep in mind that eligibility for Federal Student Aid programs is currently based on need. The needs assessment for student aid using a snapshot of family financial strength is based on a statement for the past year for parents' income and assets and on expected income and assets of the student.

The amount to save will also be affected by the increase in college costs (inflation) and interest rates on your investment assets. None of these factors can be predicted with perfect accuracy over a period of many years.

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Calculation Assumptions:

Any estimate of the amount to save for education will be a best guess rather than a fact because, to complete the calculations, assumptions must be made about interest rates, increases in college costs and other factors. But such an estimate, or several estimates with varying assumptions, should help you decide what action to take now to finance an education beyond high school for your children. To better understand any estimates, carefully examine the assumptions behind them. This MONTGUIDE makes these assumptions:

1. Your "designated education" assets will earn a 2 percent rate of return after allowances have been made for taxes and inflation. If your assets earn a higher rate, your education goals can be met while saving less. If your assets earn a lower rate, you will need to save more. Consult an investment advisor to decide what would be the best types of investments for your circumstances. To learn more about investment alternatives such as a new type of savings bond issued by the federal government which is tax free if used for tuition, request MSU Extension MONTGUIDE 9102 (HR), "Financing a College Education."
2. You intend for the "designated" educational assets to be depleted upon completion of degree requirements. If you want to have assets remaining for another financial goal such as retirement, you must save more.
3. Your income will keep pace with inflation. Since 1900, incomes have increased faster than inflation by 2-3 percent per year.⁽¹⁾ However, little real growth has occurred in the last 15 years. Growth that matches inflation is a fairly conservative assumption.
4. Yearly savings for education are placed in taxable savings and investments. If you put your savings in tax-free or tax-deferred investments, you may be able to achieve your financial goals for education while saving a smaller amount.

5. College costs will increase about 2 percent per year faster than consumer prices in general. Since 1970 tuition has increased about one percentage point per year faster than consumer prices, but this was the average of two quite distinct periods.⁽²⁾ During the 1970's tuition increased more slowly than consumer prices, while in the 1980's tuition increased twice as fast (10 percent per year versus 5 percent) as consumer prices.⁽³⁾ Tuition is expected to moderate in the 1990's.⁽⁴⁾

If the preceding assumptions are not correct for your situation, different formulas should be used for the calculations. Contact MSU Extension Service, Department of Agricultural Economics and Economics, for further information.

PROCEDURE

Steps 1-9 describe the procedure to use for calculating the amount to save for college. Write the amounts requested on the appropriate lines on the worksheet inserted in this MONTGUIDE.

Review the example for a Montana couple with a six-year-old daughter. They are hoping their daughter will attend their alma mater, Montana State University in Bozeman. While they have 12 years in which to exert influence, by age 18 their daughter may have her own ideas about college and whether she wants to attend.

Step 1. Determine annual college costs in today's dollars.

Table 1 provides the average estimated costs for some state-supported colleges in Montana for the academic year 1990-1991. If you anticipate your child will attend a school out of state, call the admissions office for that college to learn typical costs.

On the worksheet inserted in this MONTGUIDE write the present annual costs for tuition and fees, room and board, books and supplies on the appropriate lines 1(a) - 1(c). Estimate and write the personal expenditures/transportation amount on line 1(d). Total the costs on lines 1(a) - 1(d). Place the result on line 1(e).

Since in the example, parents expect their daughter to attend MSU, they enter the appropriate costs on lines 1(a) - 1(d) from Table 1. The total estimated costs for one year are \$6,808. (line 1e)

ESTIMATED RESIDENT YEARLY COSTS (1990-1991)

	Montana State University	University of Montana	Eastern Montana College
Tuition/Fees	1,338	1,450	1,308
Room/Board	2,875	3,100	1,650
Books/Supplies	450	525	475
Personal/Trans.	<u>2,145</u>	<u>2,145</u>	<u>2,145</u>
TOTAL	6,808	7,220	5,578

*For financial aid purposes, \$2,145 is used as an estimate of personal expenses.

Step 2. Determine the amount of expenses to be paid by the parents.

Consider whether child's employment, student financial aid, loans or scholarships will cover a portion of the costs. On line 2(a) write the total annual costs from line 1(e). On line 2(b) write the proportion of the total cost you expect to pay. On line 2(c) write the result of multiplying 2(a) by 2(b); the figure is the amount of college costs to be paid by the parents.

For this calculation the parents assume they will pay 50 percent of their daughter's education. They plan for her to work and apply for scholarships for the balance. They multiply \$6,808 (line 2a) by .50 (line 2b) for a result of \$3,404 (line 2c).

Step 3. Determine the future cost of the first year of college by the time the child has graduated from high school.

This step allows parents to determine the future cost (in terms of today's purchasing power) of college. (Example assumes that there will be a 2 percent increase each year in costs beyond the rate of inflation.)

On line 3(a) write the dollar amount of today's college costs that you expect to pay from (line 2(c)). On line 3(b) write the figure from Table 2 at the bottom of the page for the number of years until college. On line 3(c) write the result of multiplying 3(a) by 3(b). The amount is the projected cost of one year of college at the time your child enters.

The example parents enter \$3,404 on line 3(a). Since their daughter is 12 years from college they write the number from Table 2 (1.27) on line 3b. The result of multiplying line 3(a) (\$3,404) times 3(b) (1.27) is \$4,323.08. The amount projected is the cost of one year of college by the time their daughter enters.

Step 4. Determine the lump sum amount (in terms of today's purchasing power) needed at the beginning of the freshman year to fund the number of years child will attend college.

This step allows parents to determine the lump sum amount needed at the beginning of the freshman year. This sum will provide payments for the given number of years the child is in college. The number is based on the assumption that college costs will increase about 2 percent per year faster than consumer prices in general and that investments earn 2 percent per year after taxes and inflation.

On line 4(a) of the worksheet enter the cost of the first year of college from Step 3(c). On line 4(b) write the anticipated number of years your child will be in college. Multiply 4(a) by 4(b) and write the result on line 4(c). The amount is the lump sum needed at the beginning of the freshman year to fund your child's education. The child can draw money from the fund during the period of time he or she is in school. At the end of the period the balance will be zero.

ESTIMATING THE AMOUNT TO SAVE FOR COLLEGE Worksheet

Directions: Read the directions provided in the MONTGUIDE. Then write your figures in the spaces provided.

STEPS

1. Estimate annual college costs in today's dollars.

	Example	Your figures
a. Tuition and Fees	(a) \$ <u>1,338</u>	_____
b. Room and Board	(b) <u>2,875</u>	_____
c. Books and Supplies	(c) <u>450</u>	_____
d. Personal Expenses/Transportation	(d) <u>2,145</u>	_____
e. TOTAL	(e) \$ <u>6,808</u>	_____

2. Determine amount of college costs to be paid by parents.

a. Total Annual Costs [from 1(e)]	(a) \$ <u>6,808</u>	_____
b. Proportion to be Paid by Parents	(b) <u>x .50</u>	_____
c. Dollar amount to be Paid by Parents [multiply 2(a) by 2(b)]	(c) \$ <u>3,404</u>	_____

3. Determine the cost of the first year of college.
(Assuming college costs will increase 2% per year faster than consumer prices in general.)

a. Amount of college costs paid by parents (2c)	(a) \$ <u>3,404</u>	_____
b. Multiplying number for years until college	(b) <u>x 1.27</u>	_____
c. Cost of one year of college by the time child enters [3(a) multiplied by 3(b)]	(c) \$ <u>4,323.08</u> (Rounded \$4,323)	_____

TABLE 2

Years*	Multiplying Number	Years*	Multiplying Number	Years*	Multiplying Number
1	1.02	7	1.15	13	1.29
2	1.04	8	1.17	14	1.32
3	1.06	9	1.19	15	1.35
4	1.08	10	1.22	16	1.37
5	1.10	11	1.24	17	1.40
6	1.13	12	1.27	18	1.43

*Years until college

4. Determine the lump sum to be accumulated at the beginning of the freshman year to fund the number of years child is a college student.

(Number is based on the assumption that college costs will increase about 2 percent per year faster than consumer prices in general.)

- a. First year's college costs to be paid by parents [3(c)]
b. Number of years in college
c. Lump sum needed when child starts college to fund the years child is college student
[multiply 4(a) by 4(b)]

Example

Your figures

(a) \$ 4.323
(b) x 4
(c) \$ 17.292

5. Determine the future value of "designated educational" assets when child starts college.

Example

- a. Present value of assets currently available
b. Multiplying number for years until college
c. Future value of "designated assets" when child starts college

(a) \$ 3.000
(b) x 1.27
(c) \$ 3.810

[multiply 5(a) by 5(b)]

TABLE 3

Years*	Multiplying Number	Years*	Multiplying Number	Years*	Multiplying Number
1	1.02	7	1.15	13	1.29
2	1.04	8	1.17	14	1.32
3	1.06	9	1.19	15	1.35
4	1.08	10	1.22	16	1.37
5	1.10	11	1.24	17	1.40
6	1.13	12	1.27	18	1.43

*Years until college

6. Determine if, or how much, additional lump sum should be saved by the time child starts college.

	Example	Your figures
a. Lump sum needed when child starts college--4(c)	(a) \$ <u>17,292</u>	_____
b. Lump sum available when child starts college--5(c)	(b) <u>3,810</u>	_____
c. Net lump sum needed (not needed) when child starts college [6(a) less 6(b)]	(c) \$ <u>13,482</u>	_____

7. Determine the first year's annual savings needed.

	Example	
a. Lump sum needed when child starts college [6(c)]	(a) \$ <u>13,482</u>	_____
b. Multiplying number for years until college	(b) <u>x .073</u>	_____
c. Annual savings [7(a) multiplied by 7(b)]	(c) \$ <u>984.19*</u>	_____

TABLE 4

Years**	Multiplying Number***	Years**	Multiplying Number***	Years**	Multiplying Number***
1	.980	7	.132	13	.067
2	.485	8	.114	14	.061
3	.320	9	.101	15	.057
4	.238	10	.090	16	.053
5	.188	11	.081	17	.049
6	.155	12	.073	18	.046

*(This is the first year's annual savings amount. The savings amount for the second year is the first year's figure increased by the rate of inflation.)

**Years until college

***Note: These factors assume the payments are made at the beginning of each year.

8. Determine the approximate monthly savings needed.

	Example	Your figures
a. Amount of annual savings from step 7(c)	(a) \$ <u>984.19</u>	_____
b. Divide by 12	(b) <u>+ 12</u>	_____
c. Approximate monthly savings needed	(c) \$ <u>82.02</u>	_____

9. Determine the lump sum needed today to achieve the lump sum needed when child starts college.

	Example	
a. Lump sum needed when child starts college [6(c)]	(a) \$ <u>13,482.00</u>	_____
b. Formula derived figure for number of years until college	(b) <u>x .79</u>	_____
c. Lump sum needed today to achieve lump sum needed when child starts college [8(a) multiplied by 8(b)] (Rounded)	(c) \$ <u>10,650.78</u>	_____

TABLE 5

Years*	Multiplying Number	Years*	Multiplying Number	Years*	Multiplying Number
1	.98	7	.87	13	.77
2	.96	8	.85	14	.76
3	.94	9	.84	15	.74
4	.92	10	.82	16	.73
5	.91	11	.80	17	.71
6	.89	12	.79	18	.70

*Years until college

10. Summary of college funding needs.

Child's Name	Yearly Savings	Monthly Savings	Lump Sum Set Aside
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

The example parents expect their daughter to complete a Bachelors degree in 4 years. They are aware, however, that some majors such as engineering and architecture take longer than 4 years. They enter the rounded cost of the first year of college (\$4,323) on line 4(a). On line 4(b) they enter the number 4 which represents the anticipated years their daughter will be in school. They multiply 4(a) times 4(b) and enter the result, \$17,292, on line 4(c). The amount is the lump sum needed at the beginning of the freshman year to fund four years of their daughter's education.

Step 5. Determine the future value of current "designated education" assets when the child will start college.

If you already have funds set aside for college funding purposes, the next step is to reduce the lump sum needed as calculated in Step 4 by the future value of your "designated educational" assets. If you do not have any funds set aside for education for your child, write a zero on line 5(c) and proceed to step 6.

Assets to include are those you have designated as an "educational fund." Don't include IRA, KEOGHs or any retirement funds. Also, don't include your emergency fund, as those dollars may be needed between now and the time your child starts college. A family emergency fund should be maintained when the child(ren) are in college.

On line 5(a) write today's value of assets designated as an education fund. On line 5(b) enter the figure from Table 3 for the number of years until your child will attend college. Multiply 5(a) by 5(b) and write the result on line 5(c). The figure is the future value of "designated educational assets" when your child starts college. (This calculation assumes your "designated education" assets will earn a 2 percent rate of return after allowances have been made for taxes and inflation.)

When the example parents daughter was born, both sets of grandparents set aside a total of \$3,000 to be used for future college expenses. This is the only amount that has been designated as a college fund. The parents multiply \$3,000 (line 5a) times 1.27 (line 5b) for a result of \$3,810 (line 5c).

Step 6. Determine if, or how much, additional funds should be saved by the time your child starts college.

On line 6(a) write the amount needed when child starts college from line 4(c). On line 6(b) write the amount available when child starts college from line 5(c). Subtract line 6(b) from line 6(a). Write the result on line 6(c). If the number on line 6(c) is positive this is the amount that needs to be accumulated by the time your child starts college. If the number on line 6(c) is negative then the amount you anticipate having on deposit exceeds the amount needed.

On line 6(a) the example parents enter the amount needed (\$17,292) from line 4(c) when their daughter starts college. On line 6(b) they enter \$3,810 from line 5(c) which is the future value of the current "designated educational" assets. After subtracting 6(b) from 6(a) they discovered the net lump sum needed when their daughter starts college is \$13,482 (line 6c).

Step 7. Determine the first years annual savings needed.

On line 7(a) write the amount needed when child starts college from line 6(c). On line 7(b) enter the figure from Table 4 for the number of years until the child starts college. Multiply 7(a) by 7(b). Write the result on line 7(c). This is the annual savings needed to achieve your goal of accumulating the amount necessary to meet the financial challenge of college costs.

The example parents multiply \$13,482 (line 7a) times .073 (line 7b) for a result of \$984.19 (line 7c). This is the annual savings amount needed to achieve their goal of accumulating the funds for their daughter's college costs.

The figure is the first year's annual savings amount. The savings for the second year is the first year's amount increased by the rate of inflation. The savings for the third year is the second year's amount increased by the rate of inflation and so on.

The first year of savings for the example parents is \$984. If the rate of inflation is 6%, the second year's savings would need to be approximately \$1,043. (Rounded figures: $\$984 \times .06 = \$59 + \$984 = \$1,043$). If the second year of savings is \$1,043 and the rate of inflation is 5%, the third year's savings would need to be \$1,095. (Rounded figures: $\$1,043 \times .05 = \$52 + \$1,043 = \$1,095$).

Step 8. Determine the approximate monthly savings needed.

On line 8(a) write the amount of annual savings from step 7(c). Divide the amount by 12. The result to enter on line 8(c) is the approximate monthly savings needed for the first year.

The example parents enter \$984 from line 7(c) on line 8(a). The result of dividing line 8(a) by 12 is \$82 (line 8(c)). This is the approximate monthly savings needed the first year. This amount is approximately 3 percent of their net income. If they continue to save this percentage as their salaries increase they will not need to adjust the monthly amount for inflation.

Steps 1-8 show you how to compute the monthly savings needed to achieve your financial goal of meeting college costs. But what if you were able to set aside a lump sum that would grow to the amount needed when your child starts college? How much would you need to set aside? This is the purpose of Step 9.

Step 9. Determine what amount, if invested in a lump sum today, will grow to the lump sum needed when the child starts college.

On line 9(a) write the lump sum needed when the child starts college from Step 6(c). On line 9(b) write the figure from Table 5 for the number of years until college. Multiply 9(a) by 9(b). Write the result on line 9(c). The figure is the amount needed today to achieve lump sum calculated would be necessary when your child starts college.

The example parents calculated in Step 6(c) that the lump sum needed when their daughter starts college is \$13,482. Since she is 12 years from starting college the figure (.79) from Table 5 is written on line 9b. They multiply \$13,482 (line 9a) by .79 (line 9b) for a result of \$10,650. This is the amount the parents would need today to set aside to grow to \$13,482 in 12 years.

Step 10. Summary of college funding needs.

If you have more than one child, follow Steps 1-9 for each and record your summary on the lines provided on step 10 on the worksheet.

Step 11. When to re-calculate figures.

Keep in mind that as circumstances change, you will need to recalculate the amount to save. Examples of events that require a recalculation include, but are not limited to: substantial increase or decrease in the purchasing power of your income (for example, significant changes in the inflation rate or in income tax laws), receipt of a substantial inheritance, substantial increase or decrease in the cost of college, receipt of scholarships or increased savings by your child.

Alternatives: If you are not saving monthly or yearly the amount calculated, now is the time to examine your finances to determine how you can finance the education of your child. You may wish to consider possible alternatives such as:

1. Increase income and/or decrease family expenses so you will have more dollars to place in an education fund.
2. Find a less expensive school.
3. Have your child seek employment to contribute funds.
4. Explore the possibility of eligibility for financial

aid, including legitimate ways to qualify your child as independent for financial aid purposes.

5. Investigate scholarships.
6. Change your savings and investments to those yielding more income. (However, first seek competent investment and income advice to determine the change on your total financial situation.)
7. Delay college and have child work a year or more.
8. Explore educational benefits offered by various military organizations.
9. Explore the possibility of paying tuition in monthly installments during the school year. Some colleges now offer this plan for a small handling fee.

If your goal is to provide education funds for your child, it is never too soon to start planning and saving for education because time will work for you. It is never too late to make some changes, but the longer you wait, the fewer options you and your child may have. Remember, these calculations are based on the set assumptions described on page one. Your circumstances may require different assumptions.

A Final Thought

Keep in mind that since many parents are having children later in life they have less time to recover financially between educating the children and retirement. College costs if not properly planned for can become a retirement problem for the parents.

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Footnotes

1. Hauptman, Arthur, and Terry Hartle. "Tuition Increased Since 1970: A Perspective." Higher Education and National Affairs, Feb. 23, 1987.
2. Hauptman, ibid.
3. Young, Douglas. Professor, Agricultural Economics and Economics, Montana State University. Unpublished study, 1990.
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Acknowledgement

This publication has been reviewed by representatives from the Montana Society of Certified Public Accountants and State Bar of Montana who recommend its reading by parents who are preparing for the costs of education.

Appreciation is also expressed to those Montanans who reviewed the publication from a "parent's perspective." Their comments and suggestions were very helpful.

FILE UNDER: CONSUMER EDUCATION
K-1 (SAVINGS)
ISSUED MARCH, 1991 16620000391MC

A Montana Guide to the Legal and Financial Implications of Marriage

by
Marsha A. Goetting, CFP, C.H.E.
Extension Family Economics Specialist

- ☐ Automobile Driver's Licenses
- ☐ Automobile Registration & Titles
- ☐ Banking
 - ☐ Checking and Savings
 - ☐ Safe Deposit Box
- ☐ Credit Histories
- ☐ Family Records
- ☐ Household Inventory
- ☐ Insurance
 - ☐ Auto
 - ☐ Household and Liability
 - ☐ Health
 - ☐ Disability
 - ☐ Life
- ☐ Marriage Procedures
- ☐ Medical Histories
- ☐ Name Change
- ☐ Premarital Agreements
- ☐ Property Ownership
- ☐ Retirement Benefits
- ☐ Selective Service
- ☐ Social Security
- ☐ U. S. Savings Bonds
- ☐ Voting Registrations
- ☐ Wills

Introduction

When you become one of the 13,000 Montanans who marry each year, you enter into a legal contract. There are three parties to that contract: you, your spouse, and the State of Montana. Montana is a party to the civil contract because, under its laws, you have certain responsibilities to each other and to the State. The underlying purposes of Montana marriage laws are: to provide adequate procedures for the solemnization and registration of marriage, and to strengthen and preserve the integrity of marriage and to safeguard family relationships.¹

The chart at left is a check list of legal and financial items that need attention when a couple is married. Explanations for each item are provided in this Montguide.

Automobile Driver's License

If either of you change your name or address, the Driver Services Division of the Montana Motor Vehicle Department must be notified within ten days. If you apply for a name change and currently hold a license, you must complete a name change card and attach it to your license. For the address of the Driver Services Division in your community, look in the white pages of the telephone directory under Montana, State of—Drivers License & Exam.

If you apply for an address change, complete either a change of address form at a driver's license examining station or obtain the form and mail it to the Montana Motor Vehicle Department, Driver Services, Scott Hart Building, Helena, MT 59601.

Automobile Registration and Title

If you are going to change your name or add a name to your vehicle registration and title, submit the title and current registration to the local county treasurer's office. The treasurer will issue a new registration re-

ceipt and forward the title to the Registrar's Bureau, Motor Vehicle Division, so it can be reissued with the requested changes. If there is a lien on the vehicle, the applicant must submit a letter of authorization from the lien holder to change and/or add a name to the title. The fee for this change in 1991 is \$5.00.

Banking

Checking and Savings—The way you sign the signature card at the financial institution determines whether you have a solely-owned or jointly-held checking or savings account. Signatures determine who can manage and control the account.

If the checking or savings account card has both your signatures followed by the words "joint tenancy with right of survivorship," then either may write checks on the account or make deposits or withdrawals from the account. If you wish to have an automatic right of survivorship for your funds when the first spouse dies, this can be accomplished with a joint tenancy account.

Another alternative is to name a "Payable on Death Beneficiary" (POD). The name listed first is the owner of the account. Follow the first name with the letters POD and then write your spouse's name (for example, John Jones POD Mary Jones). A POD beneficiary can not have access to the funds until the death of the owner of the account. Both joint tenancy and POD designations allow the property to pass to designated survivors without having to go through probate.

Safe Deposit Box—Safe deposit boxes in financial institutions are for keeping important papers and other valuables. You may lease the box in one person's name or in the names of two or more persons. In a joint tenancy account, either has access to the box while both are living or if one should die. A safe deposit box that is in sole ownership may be sealed when the bank receives notification of the death of the owner. Upon the request of the personal representative, who is appointed by the district court, the bank may open the box to search for a will.

Credit History

Your credit rating is based on your financial abilities and payment record. Establishing a credit history may help you acquire credit following the death of a spouse, separation or divorce. If you have income or assets in your own name, you can get credit in your name without the signature of the other. If each of you own credit card accounts in your own name before marriage, determine whether you wish to continue this practice after marriage or would prefer to add your spouse's name to the accounts. If one of you uses a credit card for a business expense account and/or tax purposes, it may be convenient to keep the account in only the user's name.

Credit card companies allow two people to share an account number with each card showing separate names. Credit cards are easier to identify if they are not held in the same spouse's name (Mr. John Jones or Mrs.

John Jones). Instead, cards should be held in each spouse's legal name (John Jones, Sue Jones). Regardless of how many cards there are or whose names are on them, the records of joint credit card accounts will appear on each of your credit reports at the credit bureau.

Credit bureaus are companies that gather information on credit users and then sell that information in the form of credit reports to credit grantors such as banks, finance companies, and retailers. Credit bureaus keep records of consumers' debts and how regularly these debts are repaid. They gather information from creditors who send computer tapes or other payment data to credit bureaus, usually on a monthly basis, showing what each account-holder owes or has paid. The data show if payments are up-to-date or overdue, and if any action has been taken to collect overdue bills. The credit bureau adds this data to existing information in consumer files, creating a month-by-month history of activity on consumer accounts.

If debts are incurred for family purposes, such as food, clothing, housing, etc., the property you brought into the marriage will be available for use in repayment even though you personally did not incur the debt. Property held in both the husband and wife's names may be seized to pay either spouse's debts. You are not responsible for business debts your spouse incurs unless you co-signed the loans. For debts incurred prior to marriage, creditors may continue to seek access to the income of the spouse who established the debt. However, creditors cannot take the income of the spouse who did not establish the debt.

Family Records

Records become more important each year. Certain ones should be kept only for a short time, then discarded. You will need to keep others for your lifetime. Store records in a safe, fireproof place such as a safe deposit box. Have a list of your records readily available at home. MSU Extension Circular "Record of Important Papers" can help you organize your important papers. "Your Important Papers—What to Keep and Where," provides recommendations for places to keep personal records and papers. These two publications are available from your MSU County Extension office.

Household Inventory

Keep a record of household furniture, furnishings and equipment, purchase date and cost, title and ownership. A household inventory serves as a basis for:

- ✓ determining the amount of insurance protection needed
- ✓ filing claims in case of loss by fire, theft or storm
- ✓ making replacement or purchase plans
- ✓ identifying what each party brings into the marriage in the event of widowhood or divorce

Once you have made a household inventory, keep it in a safe, fireproof place. Bring the list up to date once or twice a year. Taking photographs of items is recommended. Another alternative is to make a video tape of your home furnishings. Many video production companies offer video taping services for household inventory purposes.

Insurance

The following information is not intended to promote the purchase of all types of insurance. That is a personal decision. It is intended only to help you make those decisions. Since you may not be able to afford all the insurance you feel is necessary, determine your priorities and examine availability and cost before deciding what types, if any, to purchase. This overview may help you to determine your priorities.

Auto Insurance—Collision insurance is usually required by lien-holders. (For example, the bank from which you borrowed money to buy the car will put a lien on it until the debt is paid.) In addition, Montana law requires proof of liability insurance. The minimum limits for a policy written in the state include up to \$25,000 for bodily injury liability or death of one person in an accident, \$50,000 for bodily injury to or death of two or more persons in any one accident, and \$10,000 property damage liability. You may wish to buy more coverage to compensate for higher financial losses in the event of serious accident, injury or damage to property.

Be sure to change your declarations on your auto insurance effective as of your wedding date. Policies require that all drivers in the household be declared. Auto insurance may be held solely or jointly. Many companies offer auto insurance on a multi-car policy that covers all cars in a household whether owned and registered jointly or solely. Before the wedding day, see your insurance agent about making necessary changes because there may be advantages to combining auto coverage into one policy. The multi-car insurance policy usually means lower premiums.

The information needed to adjust a policy at marriage includes: your present policy, your name and driver's license number as they appear on your driver's license, Social Security number, date of birth, occupation, use of car and number of miles driven to work, mileage you each have on each car, age and type of cars, models, horsepower, and serial numbers, driving history of each person for the last three years, and ownership of the car (jointly or solely).

Household and Liability—Newly married couples often don't think about household insurance. If they have been living at home, they may have relied on parents for this coverage. Combining two people's possessions may result in more property being under one roof. Marriage is the time to obtain a policy to protect yourself from loss in case of fire, wind and water damage, theft and/or liability. If you are renting, the best all-around protection is a tenants' policy that takes care of your belongings and liability. Check to see

that it includes fire, lightning, theft, liability coverage, and additional living expenses, both at and away from home. Be sure to know what your policy covers and what it does not cover. In particular, check to see whether the policy covers the current value (initial cost less the depreciation in value during use) of items lost or the replacement costs. There are policies available on wedding presents—although by obtaining the tenants' policy before your wedding date, you may have overall coverage. Contact an insurance agent to advise you. Extra coverage may be necessary for items not normally covered by household insurance such as jewelry, sterling silver, or works of art.

If you are buying your own home, you may have a homeowners policy which includes your house, contents, and liability. The cost for a homeowners or tenants policy will depend on the location and type of building in which you live. You can save money by having a policy with a \$250 deductible.

Health Insurance—Before marriage, you should contact the person in charge of fringe benefits at your place of employment to arrange for health insurance for your spouse. If both of you have existing health insurance policies, investigate the benefits of each to decide which policy to continue. Once you have decided which kind of policy you want, be aware of company regulations regarding deadlines for adding a family member to an already existing policy or for a required physical. You may need to act promptly after your wedding. You will also want to clarify whether there is a waiting period for receiving benefits. This can be especially important if you are pregnant, planning a pregnancy, or if you need treatment for a pre-existing condition. If you are self-employed and not covered by a group health policy, look into non-group health insurance.

Disability Insurance—Consider the facts. Between five and ten percent of the working age group are disabled. Those under age 35 years have one chance in three of suffering a serious disability before age 65. Younger people are far more likely to face a disability than a premature death. To find out how much protection you need, first estimate your annual living expenses. Then subtract sources of income (spouse's earnings or interest or dividends) which would continue if you were to become disabled. The next step is to determine how much of this need is being met by existing disability coverage. If you have group disability insurance where you work, check your contract to see what percentage of pre-disability earning is replaced and the length of time and circumstances under which you are covered. If you have individual disability insurance, check the same items to assess coverage.

Social Security may be another source of disability protection. If you have worked under covered employment, contact your local Social Security Office to determine your potential monthly benefit. Request form SSA-7004. There is no charge for this service.

Life Insurance—The need for life insurance will vary as change comes with age, job successes, children,

and home ownership. Social Security survivor and disability benefits can be used as a basis for planning your insurance program. Before buying life insurance, ask yourself these questions: "Why am I buying life insurance?" Is a parent or sibling dependent on me for support? Will my spouse be self-supporting? Do I have any large, outstanding debts? Will my spouse need income to pay any debts, such as education expenses? If you have life insurance policies, you may want to change the primary beneficiary to your spouse and/or add contingent beneficiaries to reflect your new marital situation.

Marriage Procedures

If you are going to get married in Montana, state statutes must be followed. If you are going to be married outside Montana, contact the Clerk of Court in that state to learn of specific requirements of law in that state. Significant provisions of the marriage chapter of the Montana Statutes include the following:

Marriageable Age—In Montana any person may marry, if otherwise competent, who has reached the age of 16. If you are 16 or 17, the law requires the consent of your parent(s) and a judge. The law also requires both parties who are 16 or 17 to participate in a period of marriage counseling involving at least two separate counseling sessions not less than ten days apart with a designated counselor. Once you reach age 18, Montana considers you legally an adult and your own consent is all that is needed.

Blood test—A woman, unless exempted by Montana law, must have a standard serological blood test for rubella. Men do not need blood tests. This medical certificate must be submitted with the marriage license.

Divorced Persons—There must be a legal dissolution of an earlier marriage before parties can enter into a new marriage. Persons who are separated are still legally married. Have a copy of the legal dissolution with you in case any questions arise.

License

Availability—A marriage license is available from the Clerk of the District Court.

Fee—The fee for a marriage license in 1991 is \$30.25. In most cases, this fee is non-refundable.

Information Required—The Director of the Montana Department of Health and Environmental Sciences requires the following information to be supplied on the marriage license: proof of identification and residence for each applicant; scheduled date of the marriage; the names of the parties, if they are related or not; and for each, the place, date and year of birth, race and residence, names and addresses of their parents, most recent marriages of either party; the place, dates and manner of the dissolution with the names of former spouses; and names and dates of birth of any child of whom both parties are parents born prior to the making of the application.

Getting Married

There are three legal ways to get married in Montana: ceremonial, common law, and declaration.

If neither party is a resident of Montana, before a *ceremonial marriage* can be performed, a marriage license is needed from the county Clerk of the District Court in the county where you plan to be married. If one is a resident of the state, then the license can be purchased from the Clerk of the District Court in any county. The 1991 fee is \$30.25. The amount must be in cash (no checks are accepted). The license becomes effective immediately and is good for up to 180 days. The marriage must be performed in front of two witnesses by a person authorized by the state to perform marriages such as a mayor, city judge, justice of the peace, tribal judge, or minister.

To accomplish a *common law marriage* you and your partner must qualify under the following: 1) Be legally able to enter into marriage. For example, you must be of legal age, and you cannot be married to someone else at the time; 2) Make your home together, living as husband and wife; 3) Hold yourselves out in public as married, by telling others (friends, family, employers, for example) that you are married; and 4) Agree with your partner at a specific day and time that you are married.²

If you do not qualify under all of the previously mentioned criteria, a common law marriage may not come into being. Just living together, even for a very long time, does not create a common law marriage. However, very important property, support and inheritance rights and benefits such as insurance, Social Security and worker's compensation depend upon whether or not you are married. Social Security will make its own determination of common law marriage and will recognize the marriage if valid in the state where it was contracted. If you are married by common law, you will need a dissolution to terminate the marriage. If you have questions about whether or not you are married by common law, consult an attorney, as each case depends on its specific facts.

To be married by *declaration* in Montana, the woman must first have a standard serological blood test for rubella. The Declaration of Marriage must contain the following: the names, ages, and residences of the parties; the name of the father and maiden name of the mother of both parties and addresses of each; a statement that both parties are legally competent to enter into the marriage contract and the fact that they consider themselves married. The written declaration is signed by both parties in front of two witnesses and is filed with the Clerk of the District Court. The fee for a declaration is \$30.25. The amount is paid to the Clerk of Court at the time of filing.

Medical History

After marriage, you should also begin a medical history for your new family which includes: allergies (including allergic reaction to any medication); any

serious or chronic illness, past or present; regular medication taken; past surgeries; name and address of your physician(s); inoculation records; and reappearing family illness (cancer, diabetes, hemophilia, for example)

Name Change

Historically, American women have tended to take their husband's surname upon marriage. However, a woman can legally retain her birth name if she wishes to do so. In recent years, many women have chosen to hyphenate their birth name with their husband's last name or use their birth name as a middle initial. You should make your decision before your marriage.

If you choose to take your spouse's name, legally your name will consist of your first name and your spouse's last name. You should sign your name this way—Susan A. Jones, not Mrs. John Jones. Legally, a wife should not use her husband's first name as part of her signature. Mrs. John Jones is a social title. The middle name you use can be the middle name or initial entered on your birth certificate, or your birth last name or initial. Some spouses choose to hyphenate their last names, writing either first. Either spouse may use the hyphenated form or one may elect to use it and not the other. Also, Jr. or Sr. after the name has no legal significance. The important thing is to be consistent, always signing your name in the same manner on all legal and financial papers.

Premarital Agreement

Today's brides and grooms may bring to a marriage income they have each earned and assets they have each acquired that they want to protect. Some may also want to protect inheritances for children from an earlier marriage. One method that can be used by these couples to resolve the difficult issues of money, property and prior commitments is a premarital agreement. The Montana Uniform Premarital Agreement Act defines a premarital agreement as, "an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage."

The Montana Uniform Premarital Agreement Act requires that the agreement be in writing and signed by both parties. It becomes effective upon marriage. Each party should reveal fully his or her respective financial position. Evidence of this disclosure can be made by attaching a complete and accurate financial statement to the agreement as an exhibit.

Since a premarital contract is a legal document, the logical person to draft it is an attorney who practices family law. However, the details should first be worked out between you and your spouse-to-be. In the open discussion and/or preparation of materials for the premarital contract, you and your prospective spouse will learn additional helpful information about one another's values, attitudes toward family and property, and lifestyles. For further information request MSU Extension Service Montguide "Financial Aspects of Premarital Agreements."

Property Ownership

Every couple needs to plan for the ownership and transfer of real and personal property. Real property is land and whatever is erected, growing on or affixed to it. Examples of real property include fences, buildings, water systems (unless removable), mineral deposits and standing uncut timber. Personal property refers to assets whose ownership arises either out of physical possession of the property, or as the result of a document showing ownership. In Montana, all property except real property is personal property. Examples of personal property include livestock, machinery, stored grain, stocks and bonds, checking and savings accounts, automobiles and other transportation and recreational vehicles. Property may be titled in either one or both spouses' names. For further information refer to MSU Extension Montguide "Estate Planning: Property Ownership," which is available from your County Extension Agent.

Retirement Benefits

Before marrying, check with the benefits officer at your place of employment regarding your retirement programs. Ask whether your spouse receives the benefits if you should die. Does your pension plan require you to work a certain length of time before you have the right to take your pension fund with you if you change your place of employment? Be sure your company knows the beneficiary of your pension or annuity. Also be aware that Montana law allows for retirement benefits earned during marriage to be classified as property to be divided in case of dissolution. Also, federal law covering certain private employers' pension plans restrict an employee's disposition of pension and death benefits. Therefore, the beneficiaries named in the plan may not be able to collect all the proceeds if there is a surviving spouse. Check options over carefully before changing any part of your company retirement plan. Will you want to change the beneficiary designation on your personal retirement plans, such as Individual Retirement Account (IRA), Keoghs, Simplified Employee Pension Plan, tax-deferred annuities?

Selective Service

Federal law requires men age 18-26 to notify the Selective Service Board of any change of address. A change of information form is available from any post office.

Social Security

If you plan to change your last name upon marriage, arrange for a name change on your Social Security record. Go to the nearest Social Security office and present evidence of identification showing your old and new names. Only certified copies of original documents, or the originals, such as driver's license, Social Security card, or birth certificate, are accepted. After 10 to 15 days, you will receive a new Social Security card with the original Social Security number and new name.

U.S. Savings Bonds

If you have bought U. S. Savings bonds, you may want to have these payable to your spouse. There are three forms of registration: in one name, in one name payable on death to another designated individual, and in the names of two individuals as co-owners. If a savings bond is registered in one person's name and that person dies, the value becomes a part of the estate. When a bond is registered as "John or Mary Smith," either may cash it to receive the proceeds. If John dies, Mary becomes the sole owner and can receive the proceeds upon presenting the bond for payment.

Voting Registration

If either or both of you have a new address or name change after your marriage, you will need to update your voter registration. Call your county clerk to receive the necessary forms to change voter registration.

Wills

A will is a written document indicating how you wish to have your estate divided at death. You should review and update your will as your family and economic situations change. In Montana any person 18 years of age and mentally competent may make a will.

All the property of a married person who dies without a legally effective will passes to the surviving spouse under the Montana law of intestate succession if there are no children or if there are birth children of that marriage. If there are children from a previous marriage, the deceased person's property is divided one-third to the spouse and two-thirds equally divided among the children. The way property is titled will determine who receives it upon the death of the owner.

For further information request the MSU Extension Montguides "Estate Planning: Wills," "Estate Planning: Property Ownership," and "Dying Without a Will in Montana—Who Receives Your Property."

Summary

Before getting married, complete the checklist of legal and financial items on page one. In an open discussion with your prospective spouse, much information will be learned about one another's values, attitudes towards property, lifestyles, and finances.

References:

¹Montana Code Annotated (40-1-101)

²Montana Code Annotated (40-2-601)

Acknowledgement

Appreciation is expressed to about-to-be and newly married Montana couples who reviewed and made suggestions on this publication.

Parts of this publication were adapted from *Look Before You Leap: A Wisconsin Guide to the Legal and Financial Aspects of Marriage*, authored by Karen P. Goebel, Joyce M. Albrecht, and Sharon A. Burns, University of Wisconsin-Extension, 1989.

This publication is based on laws in effect in Montana in June 1991. It is not meant to substitute for legal services. Neither the author nor the Montana State University Extension Service is engaged in rendering legal advice. For answers to specific legal questions about marriage, the services of an attorney should be obtained.

Other MSU publications in the family economics area:

- *A Montana Guide for Making Financial Decisions at Dissolution of Marriage* (EB82, Cost: \$7.50)
- *Estate Planning — Wills* (8906 HR)
- *Estate Planning — Property Ownership* (8907 HR)
- *Dying Without a Will in Montana* (8908 HR)
- *Financial Aspects of Premarital Agreements* (9121 HR)
- *Remarried Families: Making Financial Decisions* (9118 HR)
- *Estate Planning for Parents With Minor Children* (9117 HR)

File under: Consumer Education

L-3

Issued June 1991 1203000691MS

Managing a Seasonal Income for Family Living Expenses

by
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Income from farming, ranching, logging, construction work, real estate sales, and tourism doesn't come in neat, regular monthly amounts; it varies throughout the seasons of the year. Yet many family expenses such as rent or mortgage and utilities occur on a regular, predictable basis, typically monthly. If income and expenses are not balanced effectively, family members can experience feelings of financial insecurity, tension or stress.

Montana families who have learned to deal effectively with irregular incomes emphasize that it takes special management skills. Some confess that it was all too easy to get carried away when a big paycheck appeared and conveniently forget that the money would have to last through several lean or no-income months. They believe families experiencing difficulties with seasonal or irregular income need information about various techniques for managing it. That is the purpose of this MontGuide.

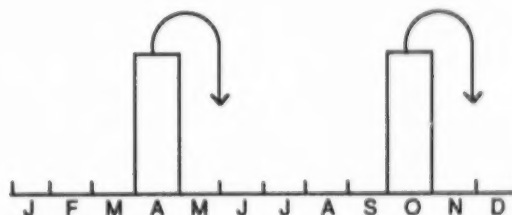
Types of Seasonal or Irregular Income

There are two common types of seasonal or irregular incomes: lump sums once or twice a year or minimum amount received year round with additional dollars received from time to time.

Lump Sum—Some incomes, such as those from tourist trade or a farm or ranch operation, come in over a short period or in lump sums once or twice a year. For example, on a farm or ranch the income is usually available when the calves or crops are sold. Business expenses are paid from gross receipts with any remaining balance to be used for family living expenses. Little or no income is expected at other times of the year. To manage effectively, money for family living expenses must be redistributed to the empty months to fill in when no income is received.

In Example One, some money is taken from April and October for family living expenses to fill in the other months when no income is received. Some families resort to using borrowed money for basic living

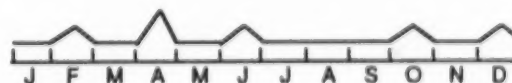
expenses because they find it difficult to distribute income throughout the year. Other families have found that, in some years, business expenses use all income and may even exceed income. In this case, there is nothing left for family living expenses. Borrowing is a temporary solution to this dilemma.



Example 1

Minimum Amount—With another kind of irregular income, a minimum amount is received year round, with additional dollars received from time to time. An added stress factor is the uncertainty of when those funds will be available. This is particularly true of those embarking upon a self-employed business without prior experience. Salespeople who work for a wage plus commission and employees who receive occasional bonuses typically earn this kind of irregular income.

In Example Two, additional amounts of income were received in February, April, June, October, and December. The challenge is to even out the income allotted to family living from those months to match year-round family living expenses.



Example 2

Planning for Seasonal or Irregular Income

There are two ways to plan for family living expenses if you have seasonal or irregular income. If your situation resembles Example One, estimate total income remaining after business expenses have been subtracted for the year. Divide that sum by 12 to determine your monthly average income available for family living expense. When income is received, deposit it in an interest-bearing savings account or money market account where it can be easily withdrawn. Every month, move your budgeted sum for living expenses from the savings account into a separate checking account to be used for family living expenses. Do not use the business account to pay family living expenses. The amount in the separate checking account becomes a regular monthly income for family living expenses instead of an irregular one.

If your situation resembles Example Two, estimate the minimum income that can be counted on every month. Plan to pay for essential family living expenses out of that amount—housing, food, utilities, health insurance and necessary transportation costs. Additional income, such as commissions, bonuses or overtime, can be saved and used for “extras,” such as replacing furnishings, a vacation, or long-term goals like retirement. If you find during the year that the minimum monthly income or bonuses are less than planned for, cuts may have to be made in essential living expenses as well as “extras.”

If seasonal income is from a family business, the plan for household spending is best developed along with anticipated expenses for the business. Although the amount needed for family living may be small compared to the large expenses of the business, planning for living expenses creates an awareness of family and business needs and wants. A workable spending plan for the household will complete the financial picture of the business operation.

Families who run business operations, such as a farm or ranch, often set aside a family living allowance when the farm income or operating loan is received. The amount to set aside can be determined by multiplying predicted monthly expenses by 12 to give an annual estimate. Then add in large non-monthly payments such as insurance premiums or vehicle licenses to give the total annual figure. Some money for savings and emergencies should be in-

cluded. Put money for the family living allowance into a savings account when the loan is received. Monthly transfers can then be made into a more convenient family checking account. Use the business checking account for business expenses only, not for family living expenses.

Make a Record of Non-Monthly Family Living Expenses

Most regular and seasonal income families have major non-monthly family living expenses that must be paid at certain times during the year. Examples of non-monthly bills include: property taxes, car and life insurance premiums, vehicle license plates, vacations and holiday gifts. A financial planning tool that may help you determine the amount to allow for non-monthly expenses is a Schedule of Non-Monthly Family Living Expenses (MSU Extension MontGuide 8910-HR.) The form gives a clear picture of how non-monthly payments are distributed throughout a 12 month period (Figure 1). You can see at a glance when major non-monthly bills are due and plan for them in advance. This form will help you calculate how much to set aside monthly so you can avoid the stressful feelings that often result when several major bills come due the same month and sufficient funds have not been set aside to pay for them. Several Montana families have used the form for their farm and ranch business non-monthly expenses so they can see at a glance when major bills are anticipated.

Benefits of Planning for Living Expenses

Planning how your family will use yearly seasonal or irregular income has many benefits. For example, planning can:

[illegible]

Figure 1. Example of Schedule of Non-Monthly Expenses.

- Reduce worry about how long the money will last.
- Help distinguish between individual and family needs and wants.
- Help distinguish between business needs and wants and family needs and wants.
- Develop an understanding and help set priorities between family and business needs and wants.
- Help the family get more for its money.
- Make financial emergencies more manageable.
- Take the shock out of big annual bills such as insurance, taxes, and Christmas.

Setting Goals

A spending plan can help families reach financial goals. Knowing you have clearly defined goals will make it easier to stick with your spending plan. Some goals will be short-term—those that can be achieved in a year or so. Examples of short term goals are painting the house, buying a washer, or simply paying the bills when they are due instead of late. Your family may also set long-term goals. These involve more money and may take several years to reach. Examples include saving for retirement, sending the children to college, or buying a home. Unless you plan now for the far-off goals, they will become urgent when it's too late to prepare for them.

A spending plan works best when everyone in the family is involved in its development. Have each family member write down his or her goals and estimate the costs. Then, as a family, set priorities that include some long and some short-term goals. Remember the family's goals should include something important to each one. Give all family members a say in this discussion. Then they will more likely be satisfied with the group consensus. Even children need to understand why some purchases must be delayed and why everyone in the family must work together to achieve financial goals. Compromises will be made and some goals put off until later. Children can learn that this year they get new coats but next year is mother's turn for a new one.

Keeping Track of Family Living Expenses

Past records of family living expenses provide a good idea of where the money has been going. Last year's tax records or bank deposits can help. You can use the non-monthly family living expense form to record seasonal income. Enter the amount of anticipated income after subtracting

business expenses in the month you anticipate receiving it. Add the amounts from January through December together. Divide that sum by 12 to determine the average monthly amount of income.

Keep family and business funds in separate accounts. Many families have discovered how much easier it is to keep track of finances and maintain records for tax purposes when they follow this simple practice. If some family members have seasonal jobs outside the farm or business, determine whether that income should be included your family's total income from which the monthly family living allowance is paid.

If you haven't previously kept records, now is a good time to start. Knowing how money is spent is especially important to people with seasonal or irregular income. A management technique that shows exactly how much you have spent or have left to spend for each living expense category is the Check Register Tracking System (described in MSU Extension MontGuide 8703-HR). The system is designed for those who want a simple way to track expenses without having to spend a lot of time doing it. While the illustrations were developed primarily for individuals who have a checking account, the method can be easily adapted for Montanans who use cash and/or credit cards (Figure 2).

Another method of keeping track of family living expenses is to write them in a notebook. Weekly or monthly one family member can separate the expenses into categories (such as food, housing, transportation, and so on) and communicate the total. This way all members will gain an appreciation of the costs of running the household. Keeping careful records for about three months will allow you to estimate expenses for the rest of the year and the upcoming year as well. Don't forget to take into consideration the expenses from your non-monthly expense form. Otherwise you may have an unrealistically low pattern of spending for family living expenses.

Helpful guidelines on family expenditures are available from the Dollar Watch program. It's simple and it's free. Just fill in the blanks on the Dollar Watch Form and return to the MSU Extension Service. A

Example 2

MAY RECORD ALL CHARGES OR CREDITS THAT AFFECT YOUR ACCOUNT									
NUMBER	DATE	FOOD	HOUSING	TRANS.	CLOTHES	PERS. CARE	MED.	REC.	BALANCE
TOTAL									300.00
1530		300.00	590.00	360.00	120.00	30.00	50.00	80.00	
511	5/1					-9.00			9.00
K-MART						20.99			290.99
	5/11								1072.98
DEPOSIT									1813.98
CASH	5/15								50.00
WITHDRAWAL									1263.98

Figure 2. Example of Check Register Tracking System

computer program then analyzes your expenditures. A printout of dollars and percentages will be mailed to the address on the form. Names are not necessary. For a copy of the Dollar Watch Form, contact your County Extension Office or Extension Publications, Culbertson Hall, Montana State University, Bozeman, Montana 59717.

Balancing Income and Expenses

Compare your monthly income or family living allowance with your monthly expenses estimate. Does the amount available cover expenses? If it does, it's important to decide how you will use any extra money. Is it for an emergency fund? Will it be saved for a year of lower income? Is it to be used to achieve other family goals? Perhaps you can afford to allow yourself a small cushion in case you find good buys at sales or need a little more flexibility in your spending plan. Discuss these issues with family members before problems arise.

If anticipated expenses are more than income, look at the family expense estimate and decide where adjustments can be made. The best place to start cutting back is on flexible expenses such as food, transportation, clothing, recreation, and gifts. While some of the items are necessary, the actual amounts are not fixed and savings can often be made.

Try the spending plan for awhile, checking your actual income and expenses against the plan regularly. If you see places where your estimates don't agree with actual expenses, figure out why. Adjust the plan or try to keep your spending in line with your plan, if over-spending is the problem. Keep in mind that your spending plan is a tool that should work for you. If it isn't working, it's OK to change it and try another method.

Look, too, at sources of income. Is there a way to increase income? Families whose income is from a family business may want to consider outside employment, particularly a job which includes benefits, such as health insurance, for the employee and family. The

advantages of such a move may outweigh the disadvantages of reducing that person's contribution to the business.

Making it Work

Have confidence in your spending plan and try to stick to it. Give it several months to work for you. Unless you have planned for it, don't borrow money for family living expenses — at least not during an initial trial period. Find out how your plan works before you change it. After this trial period, the spending plan can be revised and adjusted from time to time if necessary. The family goals and plans will change as time goes on. Insurance coverage, retirement savings, and children's needs are just a few of the things that should be reviewed regularly.

Additional Help

While the MSU Extension publications listed below do not discuss the special challenges involved with seasonal income, they provide general information on money management which can be useful to Montana individuals and families.

- Financially Fit Me (2B1326) — \$2.00
- Credit Control (EB0021) — \$2.00
- Debt Free (2B1261) — \$4.00
- Montana Families Taking Control During a Financial Crisis (2B1342) — \$2.00
- Check Register Tracking System (8307-HR) — No Charge
- Check Register (EB0050) — \$1.00.
- Dollar Watch — No Charge
- Schedule of Non-Monthly Expenses (8910 HR) — No Charge
- Family Living Record Book (2P003)—\$1.00

For copies contact your MSU County Extension Service or Extension Publications, Culbertson Hall, MSU, Bozeman, MT 59717.

Acknowledgement

Appreciation is expressed to Montanans who shared their management techniques and made suggestions on this publication.

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File under: Consumer Education
J-4 (Money Management)
Issued June 1991 1182000691MS

Estate Planning for Families with Minor Children

by

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Parents with minor children have estate planning concerns that are different from parents whose children have reached the age of majority. A typical first concern is how to provide income for the children if one or both parents die. A second concern is how assets will be managed to provide financial resources needed by the children until they reach adulthood. And a third concern is who will care for the children should both parents die at the same time. If a family has a handicapped child, there are additional considerations. This MontGuide will answer some of the estate planning questions asked by parents of minor and/or handicapped children.

How do I name someone to take care of my children?

A written will is the legal document used to nominate a guardian for minor children and a conservator of assets for them should both parents die. Guardianship provides for the children's care until they reach the age of 18. Conservatorship provides for management and distribution of the money and property left to the children until they reach the age of 18. One person can perform both functions, or one individual may be named as guardian and another as conservator.

The most difficult part of setting up a guardianship may be agreeing on the right person to be guardian of your children. Consider choosing someone whose values, lifestyle and child-rearing beliefs are similar to yours. If you choose a couple who divorce after your will is written, be sure to review your guardianship preference. A single person who has a close relationship with your children and whose lifestyle seems compatible could be a good choice. Discuss with older children their preferences because Montana law al-

lows those fourteen and over to request the court to appoint someone other than the person named in your will. The district judge will decide on a guardian based on what is in the best interest of the child.

Once your decision is made, take time to discuss all financial and child care arrangements with the conservator and guardian you have chosen. Asking someone to raise your children or to manage their assets may be an overwhelming request. Don't expect an immediate answer. Give them time to seriously consider the consequences of their acceptance. Some friends or relatives may not feel they can accept the added responsibility. If so, you may have to ask someone else. Attorneys recommend that you also name a backup guardian and conservator in case circumstances prevent your first choice from carrying out the obligation after your death.

Don't hesitate to re-evaluate your choice periodically, especially if personal and financial situations change for either you or the designated guardian and conservator. If you decide to change to another guardian or conservator, inform your current nominee. Then prepare either a new will or add a "codicil" (amendment) to your present will nominating the new guardian or conservator.

Are there alternatives to my children receiving their inheritance at age 18?

Montana law provides for the conservator to manage inherited property until the children reach age of majority, which is 18 years. When children reach their 18th birthday, each receives his or her share of the property, regardless of their capability to manage it.

You may think your children are bright but not believe they are capable of managing \$100,000 or

\$200,000 in assets while so young. Rather than leaving the assets directly to the children and nominating a conservator to manage them until the children reach age 18, you can have the assets left in a "family" trust for the children's benefit. Your will indicates which assets pass directly to the trust. For example, insurance proceeds can be paid into the trust if both parents die. Savings accounts in the parents' names can be directed to the trust. The parents select and name a trustee to manage the assets. They prepare a trust agreement giving the trustee the power to manage the trust assets and use the income for the children's benefit. The trust agreement is effective upon the death of both parents. A trust can avoid the inflexibility of conservatorship which passes the assets to the children at the age of 18. Your trust agreement can indicate any age at which the trust terminates and that age could well be beyond the age of 18.

The trust document states how you wish the money to be spent, who should be the trustee, and when the trust should terminate so assets pass to the children. The trustee has the responsibility of following the directions for health, education, and support as outlined in the trust agreement. The trustee writes out the checks for the children's living expenses, education and other costs. Trust provisions are often incorporated into the parents' will. Also, some arrangement for trustee compensation should be made if the duties are fairly extensive. Parents who want to encourage their children to attend college sometimes include a provision in the trust which gives children extra money and a lump sum distribution upon receipt of their bachelor's, master's and Ph.D. degrees. If they do not attend college, trust distribution is deferred to a later age.

What if we have a handicapped child?

When there is a family member who will never be able to care for himself or herself, estate planning is more complex and more important. Because a handicapped child could outlive both parents, they need to plan for guardianship and management of assets for the child when they are gone.

One alternative is to leave everything to your other children and instruct them to care for the handicapped child. But you may decide that solution would be too burdensome to the other children. Another alternative is to leave some assets outright to the non-handicapped children and some assets in trust to provide income for the support of the handicapped child. A consequence of this decision may result in the handicapped child being ineligible for need-based government benefits. In addition, the income could be claimed by the State of Montana for reimbursement if the handicapped child has to be in a state-supported care facility.

With help from their attorney and the Association of Retarded Citizens, one family developed an estate plan that leaves their assets to a "spendthrift trust" for a child who has Down's syndrome. Special wording in a spendthrift trust ensures that the assets will not be used in place of public benefits and that trust income will not make the handicapped child ineligible for government programs. The parents know that their child will never be able to make her own important decisions, so they have nominated an older sister as guardian. The sister is well informed about the needs and care of an individual with Down's syndrome.

For further information contact The Association for Retarded Citizens. The organization has developed a booklet entitled, "How to Provide for Their Future." The cost is \$3.00. It is available from National Headquarters, P.O. Box 6109, 2501 Avenue J, Arlington, Texas 76011.

What if we have children from a previous marriage?

Parents who have children from a previous marriage may wish to assure that these children inherit property. One way this goal can be accomplished is by the parent keeping some property in his or her name only. The parents can then write separate wills or trusts to designate which children are to receive what assets and under what circumstances.

For example, a recently married couple each have children from an earlier marriage. Neither of them wants to leave everything to the surviving spouse. The wife has a 10-year-old daughter. The husband has two children, a 24-year-old daughter and a 14-year-old son. His divorce settlement requires that a stated amount of life insurance proceeds be available for his younger child's benefit. The couple owns no property in joint tenancy with right of survivorship except their cars. Their other assets are titled in just one name—some in her name and some in his name.

The wife's will leaves the household contents to her husband and other assets to a testamentary trust for her daughter's benefit. The trust comes into existence only at the mother's death. Her separate listing of tangible personal property in the will named her daughter to receive all jewelry. Insurance proceeds will pass into the trust. The mother was especially anxious not to have the assets passing outright to her daughter since there was a chance the child's biological father would be appointed conservator. The trust agreement instructs the trustee to use income and as much of the principal as necessary for the care and education of her daughter. Any assets remaining in the trust will be distributed in yearly installments starting on the daughter's 25th birthday. The trust will terminate when the daughter reaches age 30, which allows any remaining assets to be distributed and used as she wishes.

The husband's will leaves the household contents to his wife. He has also named her as beneficiary on one of his insurance policies. He left the coin collection to his daughter and his antique firearms to his son. At first he considered dividing his other assets and insurance proceeds equally between his two children. However, he decided distributing the estate in equal shares may not provide adequately for each child's needs. If he died, his 14-year-old would need more financial support than would his 24-year-old, who is already out on her own. The father's will directs that all the assets earmarked for his children pass into a trust. The trust agreement requires that the income be used for the care and education of his son. When the son reaches age 22 the remaining assets are to be distributed equally to both children.

This couple used their will to nominate guardians for their minor children. Deciding who to nominate was even more difficult for them than it is for most people because they had to discuss the plans with former spouses who are, after all, still their children's biological parents.

How can I be sure my minor children will receive cherished personal possessions?

Nearly all parents have personal heirloom possessions which they want to hand down to their children. The Montana Uniform Probate Code contains a provision allowing a person to refer to a separate listing in his or her will which will dispose of tangible personal property such as rings, quilts, firearms, and so on. The list cannot be used to dispose of cash, certificates of deposit, securities or any property that has legal title. The list is not part of the will but separate from it and must identify both the items and the persons to receive them with reasonable certainty. It must either be in the

handwriting of the person who wrote the will or be signed by him or her. The separate listing can be changed as new possessions are added without the formalities required for new wills or codicils. The list should be dated and signed each time a change is made.

Summary

Parents with minor children face major estate planning decisions. One concern is how to provide income for the children if one or both parents die. Another concern is how assets will be managed to provide financial resources needed by the children until they reach adulthood. And the third concern is who will care for their children should both parents die. Wills and trusts can help parents achieve their estate planning goals.

Estate planning attorneys can help parents with minor and/or handicapped children weigh advantages and disadvantages of various estate planning tools and techniques. Every family is different, and each has its own estate planning situations. Often, the most difficult part of the planning for parents is to reach agreement on complex family decisions about lifestyles, values, goals, and relationships.

This publication is not designed as a substitute for legal advice. Rather it is designed to help parents become better acquainted with some of the methods used in estate planning to provide for children. Future changes in laws cannot be predicted and statements in this MontGuide are based solely on the laws in force on the date of this publication.

The Tax and Probate Council, State Bar of Montana, has approved this MontGuide and recommends its reading by all Montana parents.

Acknowledgement

The author gratefully acknowledges the Montana parents who reviewed this publication. Appreciation is expressed to Alice Mills Morrow for permission to adapt her publication.

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File under: Consumer Education
D-13 (Estate Planning)
Issued June 1991 1103000691MS

Remarried Families: Making Financial Decisions

by

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Most families develop budgets, communicate about financial decisions and use money to achieve financial goals. In remarried (step- or blended) families, there are additional factors that make financial decision-making more complex than in "first family" situations.

First, through the dissolution of marriage (divorce) decree, the district court dictates some financial arrangements. These include amount of child support and payment schedule, who pays the health insurance premiums for the children, how the parents share the children's medical expenses, amount of maintenance paid to the former spouse, payments made to fulfill the property settlement, and who is liable for the debts of the former marriage. The decree cannot be changed without going back to court. Montana statutes do not allow child support to be reduced simply because the parent decides to have more children in a subsequent marriage.

Second, there are more "relatives" in remarried families, which means there are more rules, values, emotions and financial needs and wants to be considered. These relatives may be children from a previous marriage; children of the current marriage; parents; brothers or sisters; in-laws; and former spouses and their spouses and in-laws. All these people have emotional connections which may confuse and complicate the financial decisions made in the remarried family.

As the number of family members increases, the decision-making process becomes more complicated and time-consuming. The custodial family may need to make financial decisions about the children without consulting the non-custodial family (medical emergencies, for example). Non-custodial families, then,

may be faced with expenses without being involved in the original decision. Family financial decisions require coordination and communication. The challenge is intensified if the parents have difficulty in communicating and have different financial goals.

When individuals remarry, each brings to the marriage their past experiences and ideas about money and how to spend it. If child support and/or spousal maintenance are involved, financial contact with the former spouse must continue. If money was a "touchy" subject during the first marriage, it will likely be even more so after the divorce.

Money to support the children of the first marriage provides a link between families. Problems that were present before a divorce are likely to continue. Feelings of guilt, competition for the children, power struggles over visitation and attempts to substitute money for time with the children all provide fertile ground for emotional conflicts. Because they are the link between families, children may become especially powerful in these situations. Sometimes children become the primary communication route between former spouses. Children know more about both households than do either set of parents. Some children use their knowledge to manipulate and obtain financial resources from both sets of parents. The children may induce competition between the families by comparing money or material possessions provided for them from each home.

Financial decisions for one family may be affected by the needs of another family. For example, additional money for the children's dental work may be requested by the custodial parent at the same time the non-custodial parent must pay for repairing the roof on the house. Lack of control can leave remarried

families feeling frustrated and bitter. A change in standard of living following divorce or remarriage may lead to bitter feelings for the family that sees itself as having less. Families can fall into a trap of comparing standards of living and attempting to equalize finances.

Research studies have shown that higher income is related to better remarried family functioning. Adequate resources reduce friction, resulting in less tension for the adults and children involved. As the financial situation tightens, prospects for tension and conflict increase. The fewer the resources, the more communication and effort are needed to reach an agreement.

If it has not been done before marriage, the newly-married couple should take out any court orders directed to either of them and read them through carefully to understand exactly what their financial obligations are. The law requires that child support payments be paid first from every paycheck (only taxes take precedence). That means no car payments made, no credit card bills paid, no furniture bought nor vacations taken until the child support is paid. Other creditors may have to wait. The paying parent may find it easier to have the child support payments voluntarily withheld from his or her paycheck.

Court ordered payments must be paid next, since a person is liable for contempt of court and will have to hire legal defense if payments are not made. If a person chooses to remarry, to have additional children and to take on additional financial responsibilities, that is his/her business, but the court will continue to hold him/her to previous financial responsibilities.

Financial Discussion Topics:

Individuals in remarried families develop new family relationships at the same time they learn new roles in financial decisions. New relationships and roles take time to work out. Communication is essential within the family on how finances will be handled.

The following questions may open communications within the new family unit on important financial topics. Keep in mind some of the issues may have already been determined by the District Court in the dissolution of marriage decree and can only be changed by going back to the court and receiving approval from the District Judge.

1. Do we want joint or separate checking/savings accounts? If separate accounts are established, which expenses will be paid from each account?
2. Are we willing to share information about all our financial assets and liabilities? If not, why?

3. If children are involved from past or current marriages, how will child care expenses be handled?
4. How will we make decisions about family spending?
5. When should we use credit?
6. How should we set financial goals? Who participates? How often? Under what circumstances can goals be changed?
7. Will yearly financial spending plans be developed? By whom? How closely will they be followed?
8. Who will be covered by life insurance? Who will be the beneficiary? What provisions will be made for children?
9. Will living or testamentary trusts be needed?
10. How will child support funds be used? Who participates in child support decisions?
11. Who is responsible for children's health care decisions and expenses (including medical insurance)?
12. How will college education expenses be met for the children? (For further information, request MSU Extension MontGuides "Estimating the Amount to Save for College" and "Financing a College Education: Investment Alternatives").
13. Will children receive an allowance? If so, how much? What types of expenses will they pay for? Who makes the decisions about how much is saved and spent?
14. Who will inherit family heirlooms? When will estate planning be done? Have your wills been updated? (For further information, request an MSU Extension MontGuide on "Wills").
15. Will a former spouse receive retirement benefits from an employee's record?
16. Will assets acquired during the remarriage be held in joint tenancy or as separate property? (For further information, request MSU Extension MontGuide on "Methods of Property Ownership").
17. Will a premarital agreement be prepared? If so, what will it include? (For further information, request MSU Extension MontGuide on "Financial Aspects of Premarital Agreements").

Successful Strategies:

Because money has such powerful emotional overtones, especially in remarried families, and because there is no single type of remarried family, there are no absolute or simple solutions. Listed below are suggestions from Montana remarried families on how financial affairs can be managed to ensure a sense of security and comfort:

1. Discuss feelings about money as well as past experiences with money.

- Schedule a meeting for discussing finances. Plan what will be discussed; then treat it seriously. Make every effort to stick to money business during that time.

- Write it down. Have each marriage partner list separately his/her spending priorities in descending order. Then compare lists. This technique can be very eye-opening and a better tool for discussions than a verbal battle in which one person can be seen as attacking or defending a certain position.

- While in the midst of a discussion, consciously use communication patterns that will not provoke anger. For example, when disagreeing with another person, an "I" message such as, "I am angry" is much more acceptable than a "you" message such as, "You make me mad."

- Don't assume that you understand the other person's point of view. Ask for a clarification whenever a misunderstanding appears to be developing.

- When positions appear polarized, make a special effort to negotiate, striking a bargain where each gives and takes a little and neither loses face. Compromise is often a necessity.

2. Use separate accounts, with joint planning, to minimize financial differences between "his," "her" and "our" children. Remarried families often manage their finances by using one of the following methods:

- The "common-pot" approach, in which all financial resources are pooled and then distributed according to need.

- The "two-pot" system in which partners keep income and accounts separate and each retains control over his or her own individual expenses.

- A "three-pot" system in which a household account is established for joint expenses with each spouse contributing, while each also has a separate account.

Successful couples do not necessarily stick with only one system. As the continuation of a marriage becomes more assured, a couple may gradually move from a two-pot to a common-pot system, with variations of the three-pot system tried during the transition. Regardless of which system is used, both parties need to agree on a workable method and cooperate to make the financial partnership run smoothly, which means they need to decide how financially independent each spouse is going to be.

3. Reduce the problem of one child receiving more money than another. Communicate with each child about the family's financial situation and payments made by the non-custodial parent. Create an awareness of family expenses by having children add up the monthly checks for food, housing, clothing, transportation, recreation, etc.

4. Distribute a portion of the child support directly to the child for clothing, recreation and personal expenses. This provides an opportunity for the children to learn financial decision-making. It is better for children to learn from \$5 mistakes than \$5,000 ones.

5. Attempt to reach an agreement with the non-custodial parent about how financial emergencies and unexpected expenses for a child will be handled. Do not tell the non-custodial family how its money should be spent.

6. Talk out feelings with counselors or other remarried families in a similar situation. They may be able to provide ideas and techniques that work for them.

7. Express gratitude to the former spouse for the little things given to the children.

8. Talk with the children as they mature about the family's financial situation. Very few families have the finances to maintain the accustomed standard of living when there are two households to support. Older children need to know something about the financial restraints on their spending. This must be done carefully so that the children within the second family do not resent the children of the first marriage. The parents set the example and the tone and must avoid using language that blames children for the need of financial support from their parent.

9. Relax expectations. There are no perfect solutions. Think about all the things you can control in your financial situation and worry less about those you can't control.

Summary:

While the strategies previously mentioned can be helpful to remarried families already formed, the ideal time to discuss money allocation is prior to the marriage. One way for couples contemplating remarriage to avoid financial clashes is to develop a tentative budget or spending plan. Decisions should be made as to whether or not both partners will work outside the home and whether more children are planned. Child support obligations, debts and general feelings about money should be discussed also. Discussing these

issues prior to the marriage will not necessarily make the problems go away, but at least it brings them out in the open. The individuals enter into the remarriage with more realistic expectations.

Money is a powerful force in our society, and money's effect on the success of the remarriage should not be underestimated. There is no "perfect" way of managing money that will work for all remarried families. To achieve financial success in remarried families, communication and money management must be combined.

Acknowledgement

The author expresses appreciation to Montana remarried families who reviewed and made suggestions on this MontGuide and to Marilyn Coleman and Cassie Farmer for permission to adapt their publication, "Living in Stepfamilies: Financial Decisions."

Other MSU Extension Resources

"A Montana Guide to Making Financial Decisions at Dissolution of Marriage (Divorce)" \$7.50. Contact your County Extension Service or Extension Publications, MSU, Bozeman, MT 59717.

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File under: Consumer Education
J-5 (Money Management)
Issued July 1991 1113000791MS

Financial Aspects of Premarital Agreements

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Years ago marriage contracts were mainly for the rich or royal families who wanted to protect a helpless bride or preserve the fortunes of a dynasty. Today, however, both the bride and groom may bring to marriage — and want to protect — income each earned and assets each has acquired. Some may also want to protect inheritances for children from earlier marriages.

A legal method used by couples to resolve the difficult issues of money, property and prior financial commitments is a premarital agreement. The Montana Uniform Premarital Agreement Act defines a premarital agreement as "an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage."¹

Who Needs a Premarital Agreement?

A premarital agreement could be considered if either of the future partners:

- owns valuables such as real estate, stocks, bonds, jewelry, furniture, or collectibles that he or she wants to keep as separate property;
- wants to clarify obligations to parents, a former spouse, or a child from a previous marriage;
- wants to clarify rights and role of the new spouse in a family business;
- wants an inheritance received before or during the upcoming marriage to remain as separate property, instead of marital property;
- has a vested interest in a pension plan at work;
- wants to designate how much an employed spouse contributes to the future earnings of a husband or wife who is studying for a profession such as medicine or law.

What Items Should Be Considered in a Premarital Agreement?

Listed below are items to consider when planning for your premarital agreement.¹ Both husband- and wife-to-be can prepare the information separately. After discussions, you may decide that some property may be held jointly instead of in separate names. Major concerns should be discussed with your future spouse before discussing the formal document with your respective attorneys.

1. Real estate. List all separate real estate holdings with their values, indebtedness, and payments. To whom would you want this property to pass on your death? If you divorce? Will you sell your home(s)? Invest in a different home? If a home is sold, will the proceeds remain in the name of the owner or will it be placed in joint tenancy with right of survivorship with your spouse?

2. Assets. List all stocks, bonds, money market funds, mutual funds, annuities, savings accounts, second mortgages, and money owed to you. What portion, if any, will be merged upon marriage and what will remain as sole ownership in each spouse's name? Who do you want to make decisions about the assets? What do you want to happen to the assets upon your death? What if you divorce?

3. Furniture and furnishings. What items will be jointly owned? What items will be separately owned? Will some items be sold or given away before or after the marriage?

4. Pension funds. Determine if anyone else (for example, a former spouse) has a claim on your pensions. Will that change with the new marriage? Will you need to change the beneficiary designation?

5. Life insurance. Decide if the present beneficiary designation needs to be changed. Is the present amount of insurance adequate for your new family?

6. Debts. List all credit payments (other than those already covered in Item 1) that will remain at the time of your wedding. Who is to pay these debts? You? Your spouse? Both of you?

7. Family Obligations. What financial promises, both oral and written, have been made to your children concerning education, weddings, business ventures, car insurance, support, and so on? Which, if any, of these issues should be discussed with the children?

8. Checking/savings accounts. Will accounts be kept in sole ownership or placed in joint tenancy with right of survivorship? Will you need a household account? Who pays into it, and how much? Will a safe-deposit box be leased in joint tenancy or will each have a separate box? Who will keep the keys?

9. Former spouse. If your previous marriage ended in divorce, disclose all obligations, financial and otherwise, that were made to the former spouse including property settlement payments, spouse and/or child support payments, life insurance, and health insurance, if any. If your former spouse died, detail any provision changes remarriage may cause in your financial situation. Are you receiving pension benefits or other payments that will cease?

10. Credit cards. List all. Will they remain in separate names? Or will you reapply for credit in both names? Will a limit be set on the amount that can be charged without consulting the other? Who pays the bills and keeps the records?

11. Automobile(s). Will the title(s) be kept in separate names or reissued in joint tenancy? Who will pay the insurance? Should insurance coverage be changed?

12. Employment. Will earnings be kept in separate accounts or pooled? Will the marriage affect either party's ability to move for employment? Will either discontinue working? What effect will transfer of one party to a different community have on the other party? What effect will an early retirement of one spouse have on the relationship and financial situation?

13. Parents. Does either party have aging parents who are dependent now or may become so? Will they live with you? Who will care for them? What financial help will be given?

14. Children. What are each party's financial and/or parental responsibilities? If a child has special needs, what are they and how will they be handled? Are children planned in the forthcoming marriage?

15. Religious financial commitments. Same church? Separate churches with no interference? Will contributions come from husband, wife, or both?

16. Charitable contributions. Who decides what organizations are worthy? Will contributions come from husband, wife, or both?

17. Wills. Specify that separate wills are to be written; itemize provisions each should make for the other in his or her will. Incorporate reference to a separate listing of tangible personal property in the will. (For more information, request the MSU Extension MontGuide on Wills, HR 8906.)

18. Periodic revisions. Formally agree when you will review your premarital agreement. If modifications are then in order, agree for each party to seek legal counsel.

Must the Agreement Be in Writing?

The Montana Uniform Premarital Agreement Act requires that the agreement be in writing and signed by both parties. It becomes effective upon marriage. Each party should reveal fully his or her respective financial position. Evidence of this disclosure can be made by attaching a complete and accurate financial statement to the agreement as an exhibit.² Since a premarital contract is a legal document, the logical person to draft it is an attorney who practices family law, but you and your spouse-to-be should work out the details first.

Can My Premarital Agreement Substitute for a Will?

No, each partner should still have a will. A will can be signed and changed only by the person who wrote it. A premarital agreement can be changed only by both parties. A premarital agreement may help minimize tension between adult children and the new stepparent. Adult children may fear the stepparent will receive their parent's assets upon death.

Isn't a Premarital Agreement a Pessimistic, Potentially Destructive Way to Begin a Marriage?

It is true that some couples have broken up or indefinitely postponed the wedding after beginning premarital contract negotiations. But isn't it better that they discover the differences before marriage? If they can't struggle through writing a premarital agreement, how could they struggle through a marriage?³

In the open discussion and preparation of materials for the premarital contract, you and your prospective spouse will learn important facts about one another's values, attitudes toward family and property, and lifestyles. Since one shaky provision can upset an entire contract, you may want a severability clause. This provides that even if one portion of the agreement proves illegal or unenforceable, the rest will still be valid.⁴

Before Signing

Each party should have individual legal counsel before signing the contract. Without a separate attorney for each spouse, the potential exists for a judge to set aside the premarital agreement.

Example: In one situation, a wealthy man had his fiancée sign away all rights to his personal assets should they divorce. When they did divorce, the judge set aside the premarital agreement, ruling in this case that the woman's lack of legal counsel before signing invalidated the contract.

While consulting with two attorneys may seem an unnecessary added expense, it is not. It ensures a premarital agreement that is fair and advantageous to both parties, their children, and their families.

What if We Change Our Minds After the Agreement is Signed?

Your attorney should include a clause which allows for modification of the contract upon the joint written consent of both parties. Such a provision allows for flexibility in coping with changed circumstances. For example, a couple may wish to renegotiate a contract provision after a certain period of time or after birth of a child.

Summary

A premarital agreement can create an atmosphere of open discussion in your new relationship. This will carry over so that future concerns about money, work, children, the home, and other mutual issues can be discussed openly. Montana courts will uphold premarital agreements when both parties understand the legal consequences of the contract at the time they sign it. Both parties need to be aware of all important facts at the time the agreement is written. The agreement should be signed only if both parties truly agree with the terms.⁵

Both spouses should practice financial management that is in keeping with the premarital agreement. For example, it would complicate the legal agreement if property were placed in joint tenancy when the agreement stated it was to remain in separate names. Further information is available in MSU Extension MontGuides "A Montana Guide to the Legal and Financial Implications of Marriage," HR 9106, and "Estate Planning: Property Ownership," HR 8907.

Notes

¹Uniform Premarital Agreement Act, Montana Codes Annotated 40 - 2 - 601 through 610.

²Kuyper, Neal A. "The Business of Remarriage," *Dynamic Years*, (September-October 1984), 33 - 35.

³"Prenuptial Contracts: For Better or Worse?" *Consumer Views*, Vol. 16, No. 9, (September 1985).

⁴Dulaney, Carol and Joan Jonkel. "Until Dissolution Do Us Part: Premarital Contracts An Overview of Their Content and Validity," *Montana Lawyer*, (September 1980), 3 - 7.

⁵Mahar, Margaret. "Striking A Deal Before Tying the Knot," *Money*, (January 1984), 131 - 135.

Other Resources:

A Montana Guide for Making Financial Decisions at Dissolution of Marriage (Divorce) EB82 - Cost \$7.50.

Acknowledgement:

This publication has been reviewed by representatives from the Family Law Section, State Bar of Montana. Appreciation is also expressed to Montana married couples, "about to be" married couples, and attorneys who provided suggestions on content.

This publication is based on Montana laws in effect May 1991. It is not meant to substitute for legal services. Neither the author nor the Montana State University Extension Service is engaged in rendering legal advice. For answers to specific legal questions about premarital agreements, the services of an attorney should be obtained.

File under: Consumer Education
L-4 (Miscellaneous)
Issued July 1991 1233000791MS